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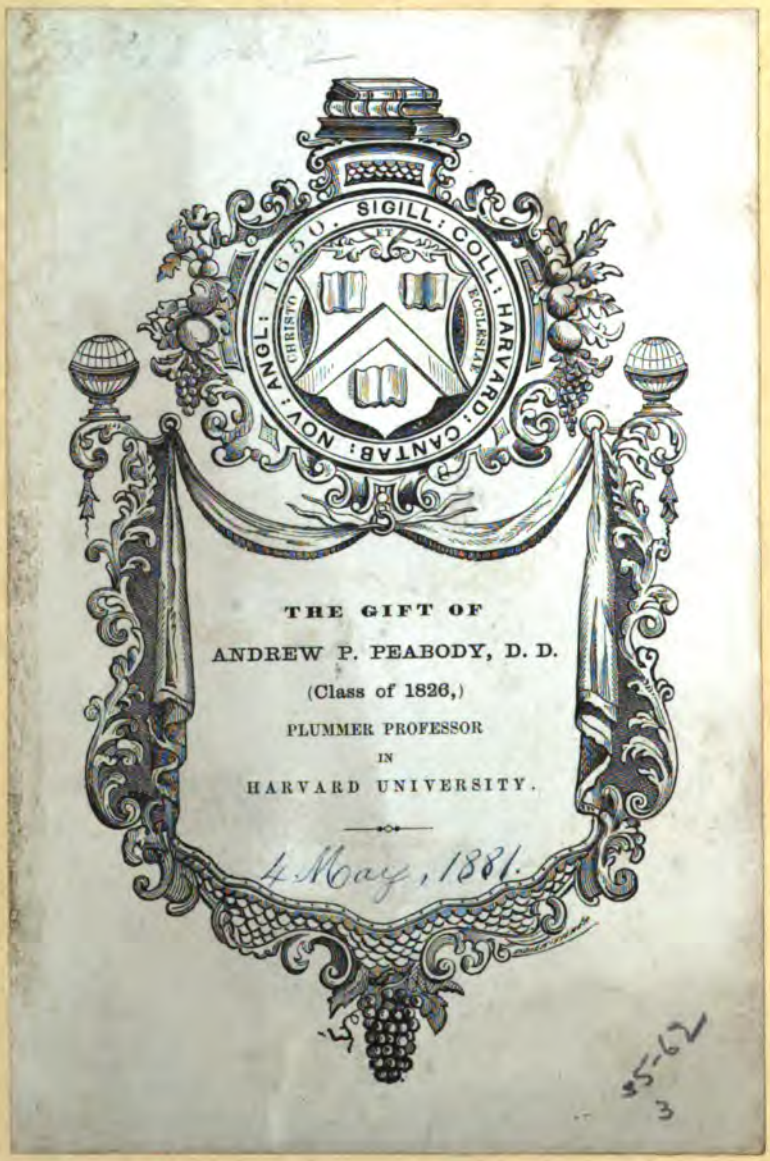

THE GIFT OF
ANDREW P. PEABODY, D. D.
(Class of 1826,)
PLUMMER PROFESSOR
IN
HARVARD UNIVERSITY.

4 May, 1881.

35-62
3

ABRIDGMENT

OF THE

DEBATES OF CONGRESS,

FROM 1789 TO 1856.

FROM GALES AND SEATON'S ANNALS OF CONGRESS; FROM THEIR REGISTER OF DEBATES; AND FROM THE OFFICIAL REPORTED DEBATES, BY JOHN C. RIVES.

BY

THE AUTHOR OF THE THIRTY YEARS' VIEW.

VOL. XI.

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TWENTY-FIRST CONGRESS.—FIRST SESSION.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

CONTINUED FROM VOL. X.

WEDNESDAY, March 31, 1830.

Pay of Members.

The House then resumed the consideration of the resolution, offered by Mr. MCDUFFIE.

Mr. SMYTH, of Virginia, spoke in opposition to the resolution. He said the object of the gentleman from South Carolina, who had introduced the resolution, seemed to him to be the application of a forfeiture of the pay of members for the purpose of curtailing the length of the session of Congress. It also contemplated an indirect reduction of the per diem allowance of members. He confidently believed it was no part of the policy of that gentleman (Mr. MCDUFFIE) to seek popularity by his proposition; but he believed him mistaken in relation to the effect which would result from its adoption. He believed its effect would be to leave the business of legislation, or throw it into the hands of less competent incumbents. It went upon the hypothesis that one hundred days were sufficient for the transaction of the public business. To this he could not agree; its admission would be to pass condemnation upon their predecessors. The last five sessions of Congress had averaged one hundred and sixty-seven days; and all experience proved that one hundred and seventy days per session were necessary. It should be considered that the business of Congress was continually increasing, on account of the great national questions arising before them—the pension system, the international improvement system, &c.

Mr. S. said he did not believe it was the wish of the people that their representatives should legislate for them without pay after they have been in session one hundred and twenty days, should they find it necessary to remain longer. He also contended that, should this proposition be adopted, the members in ordinary circumstances, who represented the true interests of the people, would be compelled, in justice to their own interest, to go home as soon as their pay was reduced; and there would consequently be none but the aristocracy left to do the business of legislation. He held it bad policy to render the representatives of the people at all dependent by a curtailment of their pay. It drove them to seek relief in Executive patronage; and he could refer to hundreds who had gone into post offices, Indian agencies, &c.; and he deemed this an evidence that they were insufficiently provided for. Mr. S. said, if the pay of other officers of Government were reduced in the same ratio, he would consent to reduce the pay of members to six dollars a day; but not otherwise.

Mr. S. then went into an examination of the business which has been done this session, in comparison with that transacted during former sessions. He concluded by remarking that he believed the only remedy for the evil complained of, was to be found in short speeches and long days' sessions; and he moved an amendment to the amendment, providing that, during the remainder of the session, a motion to adjourn should not be in order until half past four o'clock.

This proposition, involving an amendment of the rules of the House, and consequently requiring to be laid one day on the table, was decided by the Speaker not to be in order.

Mr. STORRS, of New York, understood the object of the resolution to be the correction of a moral evil, the existence of which was evident. He thought it would be a reflection on the House to contend that it could not transact all the essential business which came before it in four months. The number of bills which were passed at the long sessions, he believed, did not exceed those passed at the short sessions. He referred to the haste with which

bills were urged through on the last ten or twelve days of the session. Of this system of legislation he contended there was no necessity, as bills could as well be passed expeditiously in the middle of the session as at its close. He warned new members that they would witness the same scene that old ones had become accustomed to. He believed that the first month of the session, on account of the holidays, was rendered nearly or quite useless; and if the session was to be shortened, it should be by meeting on the first Monday in January, instead of the first Monday in December. The rules of the House did not properly regulate its proceedings. They continued to make the bills the order of the day for to-morrow, while that to-morrow never came. The resolution which they were now discussing, for instance, still occupied the hour devoted to resolutions, to the exclusion of all other business. The judiciary bill had been thrown aside for so long a period, that he really had forgotten what question was in order on its discussion. This, too, (said Mr. S.,) is the day on which the gentleman from Tennessee (Mr. BELL) was to have introduced his bill upon the subject of our Indian relations. Mr. S. concluded by expressing his conviction that, if gentlemen would come to the resolution to cut short these interminable debates, lop off the first month of the session, assemble on the first Monday in January, and look forward to the first of May as the desirable period to return to their domestic affairs, the public business would be more faithfully performed, and the deprecated evil corrected.

Mr. CAMBRELENG agreed with his colleague (Mr. STORRS) that the proper mode of shortening the session was to take from the first part of it; but he could not join in the charge which had so frequently been made against this House, particularly of a want of energy and industry. He would defy any member, no matter how long he might have held a seat on that floor, to point to any former session when twenty and thirty bills had been passed in a day in the middle of a session, as was the case on Friday and Saturday last. It seemed to be the particular desire of some members most unjustifiably to find fault with this Congress in distinction of all others. While he was up, he would ask the gentleman from Massachusetts (Mr. EVERETT) to modify his amendment so as to fix the termination of the first session, hereafter, at the 15th of April; which was accepted.

Mr. EVERETT accepted the modification.

The previous question was then demanded, and the House ordered the main question to be put.

The main question, being on the passage of the resolution, was then put, and decided in the negative, as follows:

YEAS.—Messrs. Alston, Angel, Bailey, P. P. Barbour, Barnwell, Baylor, James Blair, John Blair, Boon, Brown, Cahoon, Campbell, Chilton, Claiborne, Clay, Conner, Crawford, Daniel, Desha, Doddridge, Drayton, Dudley, Dwight, Earll, Ellsworth, Foster, Gilmore, Gordon, Hall, Halsey, Hammons, Harvey, Haynes, Hubbard, R. M. Johnson, P. King, Lamar, Lewis, Loyall, Lumpkin, Lyon, Magee, Martin, McCoy, McDuffie, Mitchell, Nuckolls, Powers, Richardson, Roane, Shepard, Speight, Standifer, Thompson of Georgia, Tracy, Trezvant, Tucker, Verplanck, Weeks, White of New York, Wickliffe—61

NAYS.—Messrs. Anderson, Arnold, Barber, J. S. Barbour, Barringer, Bates, Beekman, Bell, Bockee, Borst, Bouldin, Brodhead, Buchanan, Burges, Butman, Cambreleng, Chandler, Clark, Coke, Coleman, Condict, Cooper, Coulter, Cowles, Craig of Virginia, Crane, Crockett, Creighton, Crocheron, Crowninshield, Davenport, Davis of Massachusetts, Deberry, Denny, De Witt, Dickinson, Duncan, Evans of Maine, Everett of Vermont, Findlay, Finch, Ford, Forward, Fry, Gaither, Goodenow, Gorham, Green, Grennell, Hemphill, Hinds, Hodges, Howard, Hughes, Hunt, Huntington, Ingersoll, T. Irwin, W. W. Irvin, Isacks, Johns, Johnson of Tennessee, Kendall, Kinkaid, King of New York, Lea, Lecompte, Leiper, Lent, Letcher, Mallary, Martindale, Thomas Maxwell, Lewis Maxwell, McCreery, McIntire, Monell, Muhlenberg, Norton, Overton, Pearce, Pettis, Pierson, Polk, Potter, Ramsey, Randolph, Reed, Rencher, Rose, Russel, Scott, Shepperd, Shields, Semmes, Sill, S. A. Smith, A. Smyth, Spencer of New York, Sprigg, Stanberry, Sterigere, Stephens, Storrs of New York, Storrs of Connecticut, Strong, Sutherland, Swift, Taliaferro, Taylor, Test, Thompson of Ohio, Vance, Varnum, Vinton, Washington, Wayne, Whittlesey, White of Louisiana, Wilson, Yancey, Young—122.

Topographical Surveys.

The bill making appropriations for certain surveys, &c., was then taken up for a third reading.

Mr. WICKLIFFE moved to amend the bill in the clause appropriating money for surveys, by adding a proviso, that the sum appropriated should be expended on works heretofore directed, or which may be directed, by either House of Congress.

Mr. CLAY expressed a hope that the limitation would not be adopted, and asked for the yeas and nays on the question.

At the suggestion of Mr. MCDUFFIE, Mr. CLAY withdrew his call for the yeas and nays, which was immediately renewed by Mr. WICKLIFFE.

The yeas and nays were then ordered.

Mr. ELLSWORTH expressed his hope that the amendment would not be adopted. He reminded the House that it had been customary to pass an appropriation of this kind annually; and he desired that it be applied on the usual principle—that the same discretion which had been hitherto given to the proper department in the disbursement of this money, should still be given to them. He argued against the proposed change as inexpedient, unjust, and unreasonable.

Mr. MCDUFFIE repeated the objections he had urged against this limitation at the last session, when a similar proposition was negatived by a vote of four to one. If this limitation should be adopted, every member will have his own

peculiar project carried through, or no propositions will pass. Complaint had been made that the works begun were not national, yet it was proposed to compel the Government to complete them instead of taking up others which might be national. It was therefore an unreasonable proposition, and he hoped it would not be adopted.

Mr. WICKLIFFE defended his amendment, on the ground generally of the abuse which the present mode led to, the unimportant nature of the works which it enabled members to procure to be undertaken, &c.

Mr. MARTIN stated that, although opposed to the system, he was still more opposed to the amendment, in its present form. If the system was to be continued, he was for leaving its exercise where it was now, to the Executive, and to keep this House as clear as possible of the contention and the agitation which it was calculated to produce here. He then moved to amend the amendment, by striking out "or such as may hereafter be directed by either House of Congress."

Mr. ELLSWORTH thought this proposition was exceptionable. It seemed to contemplate that whenever a proposition for any appropriation for any particular work is made, the subject is to undergo a discussion in this House; and members are to be called on to decide, with the superficial knowledge they must be supposed to possess, on the preference of making a survey for a route here, over that for a route there. He hoped, therefore, that the amendment would not prevail.

Mr. TREZVANT made some remarks against the commitment of a discretion to the departments as to the direction of any surveys. He wished to confine the appropriation to such surveys as have been commenced, and that the House should afterwards decide on the propriety of new ones. He argued at some length in explanation of his views, and hoped the amendment of the gentleman from South Carolina would not be adopted.

Mr. TEST here called for the previous question, but the call was not seconded.

Mr. MARTIN explained his own views, so as to remove a misconception which he thought seemed to prevail as to his course.

Mr. HALL opposed the whole system, the amendment, as well as the bill itself. If he took the amendment of Mr. MARTIN, the remainder of Mr. WICKLIFFE's amendment would contain enough to involve all his principles. He could vote for none of the questions proposed.

Mr. MERCER suggested that many surveys had been ordered by Congress, which have not yet been commenced; and the effect of the amendment would be to relieve the Executive of all responsibility whatever.

Mr. TREZVANT said a few words in explanation.

Mr. TUCKER moved to strike out the enacting words, and called for the yeas and nays, which were ordered.

At the suggestion of Mr. MCDUFFIE, Mr. TUCKER withdrew his motion to amend.

The amendment moved by Mr. MARTIN to the amendment was then negatived.

Mr. P. P. BARBOUR suggested a modification of the amendment so as to strike out the words "either House of," so as to read—shall be directed by Congress.

Mr. WICKLIFFE declined to accept the modification.

Mr. P. P. BARBOUR then moved his proposition as an amendment.

Mr. DRAYTON stated that his opinion had always been that the act of 1824, authorizing this expenditure for surveys, was unconstitutional. He consequently was opposed to all appropriations for these objects; but he was in favor of the amendment for reasons he stated—the chief of which was, that it would tend to prevent abuses in the execution of the act, and contending that works beginning and ending in the same State could not be deemed national, but many such under the present system had been undertaken.

Mr. P. P. BARBOUR enforced the propriety of the amendment he had offered. The vote of this House is the vote of the representatives of the people, while that of the Senate is the vote of the representatives of the States; and he wished to unite both. He declared himself utterly opposed to the whole system, and every scheme, survey, and appropriation under it.

Mr. MERCER advocated the power of the Government to make these surveys, and the practice which had prevailed under that power, denying peremptorily that it had led to any abuses, although the allegation was so often repeated, and arguing that a work commencing and ending in a State might be, and often was, strictly national, many cases of which he cited: amongst others, he maintained that if a line of canals from Maine to Georgia was a national work, any part of that line, however small, is national. The whole work cannot be completed at once, it must be constructed in detail, and in parts. The Buffalo and New Orleans road he considered as national, whether it was cut up in decimal parts, or viewed as a whole. He said he had carefully investigated the practice of the department, and he believed it to be free from abuse. Even in a case which he had four years ago considered the most doubtful, he had subsequently satisfied himself that there was no ground for doubt. To objections on the score of local interests being too influential, he replied that in time of war it was as important a power which regulated the direction of an army, as that which gives the direction of a road. The western part of the State of New York had entirely sprung up under the fostering influence of the late war, as millions had been expended there in consequence of the march of troops. Yet no one contended that, in that case, the Government should be controlled, lest the local interests of one section should be preferred to those of another.

Mr. AMBROSE SPENCER stated that the question as to the power of the Government to make these surveys, was settled by the act of 1824, and that it was useless now to make it a subject of discussion. He was opposed to imposing upon the present administration a limitation which had not been imposed upon their predecessors. He declared himself adverse to the amendment to the amendment, as well as to the amendment. He expressed his concurrence in the views which had fallen from the last speaker, and controverted the idea that works confined entirely to particular States were necessarily not national, cases of which he cited.

Mr. IRWIN, of Pennsylvania, expressed his hope that both the amendment of the gentleman from Kentucky, and that of the gentleman from Virginia, would be rejected.

Mr. MALLARY contended that it was due to the President, who is at the head of the military force, to give to him an entire command over those works which are connected with the military defence of the country. He could, in the exercise of that power, lead to more full and more satisfactory results than we can ever be brought to by listening to the contending claims of conflicting interests in the House. There was no reason for imposing this limitation on the present Executive.

Mr. BARRINGER said, the adoption of the amendment could only lead to a multiplication of surveys; and he argued briefly to show the inexpediency of the amendments. Deeming it useless, however, to consume more time in debate, he demanded the previous question—yeas 66. The number was insufficient.

Mr. TUCKER asked for the yeas and nays on the amendment of Mr. BARBOUR, but they were refused.

The amendment to the amendment was then negatived: yeas 72—nays 96.

The question was then taken on the amendment of Mr. WICKLIFFE, and decided in the negative: yeas 75—nays 111.

Mr. WILLIAMS asked for the yeas and nays on the third reading of the bill, which were ordered: yeas 121—nays 64.

THURSDAY, April 1.

Buffalo and New Orleans Road.

Mr. COKE, of Virginia, delivered his views in opposition to the bill.

Mr. IRWIN, of Pennsylvania, said, that the remarks which had been made by several gentlemen who had taken part in the debate, had induced him to depart from a resolution he had formed, of merely giving a silent vote in favor of the bill. But (said Mr. I.) as I am not willing that any portion of the people of my native State shall remain under the imputation of being influenced solely by local considerations, regardless of principle and the true interests of the country, in the support which they or their representatives give to the bill, I will ask the indulgence of the committee, while I submit some of the views which have been impressed on my mind in relation to it. The constitutional question which has been so frequently discussed in this House on former occasions, it is not my intention to notice. I consider it deliberately established by successive acts of legislation for a series of years, and by public opinion, by which I do not wish to be understood to mean the opinion of a single congressional district, nor of a State, but that great and abiding opinion of a majority of the people of most of the States of the Union, repeatedly expressed after long deliberation, resulting in a settled conviction that the constitution has given to Congress full and complete control over the subject, limited only by their discretion, in legislating for the public welfare. Here it should be suffered to rest, for the mind of man cannot give it any additional light. It has been said, sir, that, at a former session of Congress, it was only designed to make a national road from this city to New Orleans, but that the friends of the measure, despairing of being able to pass the bill in that shape, determined to enlist other interests, and that the sectional feelings of the people of the interior of Pennsylvania could be brought into action, by extending the road through that State to Buffalo. It was not left merely to inference, but it was broadly asserted that the approbation of the people of Pennsylvania to the measure could be obtained in no other way, and that the national interests would be the least part of their concern. The assertion is unfounded; I trust I may be excused for saying that no part of this Union is less affected by sectional considerations, more patriotic, or more truly devoted to the welfare of their country, than are the people of Pennsylvania. They were among the first to maintain the true doctrine of our republican institutions; they cherish them as the means of individual happiness and national prosperity, and they will struggle long before they will suffer them to be impaired by refined and narrow constructions. The power to make roads and canals for national purposes, they have asserted to belong to this Government in their assemblies to discuss the question, by legislative enactments, and by the votes of their representatives on this floor. For no selfish purpose, sir, but because they believed, and still believe, that the prosperity of the country, if not its very existence, depends upon the exercise of this power. That State has never asked from Congress any thing for works of internal improvement, although she was the first to embark extensively in them; she relied on her own resources, and has expended more money on roads, bridges, and canals, than any other State in this Union. When it is recollected that she has been second only to another State in her contributions to the national revenue; that she has asked nothing, and got nothing, for works of a local character; when

she has pressed upon this Government the necessity of appropriating money for internal improvements of national importance, there will be no room to conclude that her people are influenced by sectional considerations. No, her support to these measures has a nobler origin; deeply impressed with the importance of this Union to their safety and happiness, and believing that its preservation depends mainly upon its facilities for internal commerce, they will always be found in favor of any means by which objects so desirable can be best accomplished. Yet I claim for them no virtue that is not common to their fellow-citizens of other States: for I must believe that the account which some of the gentlemen have given of the means by which certain people have been brought to advocate the bill before us, is drawn from the imagination. True, you find in every community a few who are lost to all sense of public virtue, and whose sordid passions prepare them for corrupt practices. But that any considerable portion of the people, whose districts, as has been said, have no sooner presented to them the golden bait, than they abandon fixed principles, and adopt new doctrines, and that these feelings are communicated to their representatives on this floor, who are moved and governed by them, is what I am not willing to credit. Such suggestions, made in this body, with no better foundation for them than exists, lead to the most injurious consequences. If opinions on constitutional questions are to be bought; if men have become so flexible as to be swayed only by motives which address themselves to their private interests, what security is there for the continuance of our republican institutions? Our whole political edifice rests upon the virtue and intelligence of the people; and, if it be once admitted, that all questions of constitutional power may be settled by an appeal to the base and sordid passions of our nature, we shall find, like the foolish man, that we have built our house in the sand, and that in some party tempest it will fall to pieces. But these pictures of supposed changes of opinion have been drawn from the fancy. The great mass of the people, whose interests were to be effected by internal improvements, could not have been informed of any constitutional impediments; and, if they searched to satisfy themselves, they did not find any. In no condition of life are men prone to trouble themselves about matters which do not immediately affect them, particularly such as require labor to understand. But a spirit of enterprise begets a disposition to inquire, and that generally results in the expression of opinions which many mistake for new doctrines in opposition to those which were supposed to prevail. This is the most rational solution for the continued increase of the friends of internal improvement, without imputing to any portion of our people dereliction of principle. To show that the conferring of benefits cannot, in the least, influence members on this floor, when opposed to constitutional scruples or views of expediency, we have the declarations of several gentlemen from Virginia who have taken part in this debate in opposition to the bill. They have said that, if the road were to pass through their farms, they would oppose it; nay, one of them has gone so far as to say, while he complained of the unequal distribution of the public revenues which the system of internal improvement gave rise to, that the rights of his State were violated by an appropriation of money to a company which that State had incorporated for making the Dismal Swamp Canal. Can we want stronger evidence of a disinterested spirit which would reject the paternal hand of the Government, which was extended only to confer among its people its benefits and its bounties? If so, there are kindred feelings, I am told, further south, and that at this session we shall have full proof of it. But it is unnecessary to add more to contradict assertions unsupported by evidence.

After listening to the arguments of the gentleman from Virginia, (Mr. BARBOUR,) who opened the debate in opposition to the bill, I was forcibly struck with the contrast which they presented to the sound doctrines of the old Virginia school. The Washingtons, the Jeffersons, and the Madisons—the fathers of the republic. While their lessons of political wisdom took deep and permanent root in Pennsylvania, and in most of the States of this Union, they have been fated to be despised and rejected by the modern politicians of the ancient dominion. As early as 1790, President Washington, in fulfilling the constitutional injunction to recommend to Congress such measures as he should judge necessary and expedient, says, "that the safety and interest of the people require that they should promote such manufactures as tend to render them independent of others for essential, particularly military supplies," and "of giving effectual encouragement as well to the introduction of new and useful inventions from abroad as to the exertions of skill and genius in producing them at home; and of facilitating the intercourse between distant parts of our country." Mr. Jefferson, in an unpublished letter to a near relative of my friend and colleague, (Mr. LEIPER,) dated in January, 1809, says that he "had lately inculcated the encouragement of manufactures, to the extent of our own consumption at least, on all articles of which we raise the raw material;" that "its enemies say that the iron which we make must not be wrought here into ploughs, axes, hoes, &c., in order that the ship owner may have the profit of carrying it to Europe, and bringing it back in a manufactured form; as if, after manufacturing our own raw materials for our own use, there should not be a surplus produce sufficient to employ a due proportion of navigation in carrying it to market, and exchanging it for those articles of which we have not the raw material." In 1815, the same gentleman, in substance, repeats

the same opinions. Sir, I hope to be pardoned for noticing a subject in this debate which does not legitimately belong to it; but the example was shown by several of the gentlemen who have spoken on the other side. In truth, the enemies of the protecting system in this House have, on several occasions, however unwarranted by the subject in discussion, indulged themselves in no measured language in denouncing the existing tariff. There seems to be a morbid sensibility in the minds of members from the South, on this question, which, at least in my hearing, has hitherto prevented a dispassionate examination of it. Fortunately for its friends, experience has proved that a wiser act was never passed. Our latest advices from abroad have informed us that in every part of Europe active measures are in operation for the protection of their domestic industry. Had we done nothing, therefore, to countervail foreign commercial regulations, our condition would have been worse than colonial vassalage. Gentlemen, in depicting the effects of the tariff policy, have been misled by imaginary evils, for the sake of maintaining favorite theories; we know enough of human nature to be convinced that the pride of opinion, like the pride of authorship, is often the ruling passion, and that, rather than abandon dogmas which men have cherished and maintained from youth to age, they would see the fairest portions of our land visited with decay, ruin, and desolation. To what extravagant lengths have their metaphysical refinements upon constitutional power arrived? They say that we are not authorized to provide for the safety of our navy and mercantile marine, in entering our harbors, by the erection of light-houses, beacons, piers, &c., nor to build safe and commodious harbors for them; that we have no power to promote education, literature, and science, by the appropriation of public money; that we cannot apply the public funds to relieve individual calamity; that we cannot protect our domestic manufactures by impost duties; and, finally, that we have no authority to expend any part of the national treasure in making roads and canals, nor even a right to aid, by appropriations, companies incorporated by a State! Of what value would our Government be to us, stripped of these powers? I am free to declare that it would not answer the great purposes for which it was instituted, that it would be unworthy the affections of the American people, and that the sooner it was dissolved the better.

Permit me, now, to turn the attention of the committee to a better commentary upon the power of this Government to construct roads for national purposes, than all the refined arguments we have heard from the other side. It has not been, I believe, before noticed since the session it was introduced into Congress. It must be taken, considering the source from which it emanated, as conclusive on the constitutional question. In February, 1796, Mr. Madison introduced a resolution in the House of Representatives for the appointment of a committee to report a bill authorizing the President of the United States to cause to be examined, and, where necessary, to be surveyed, the general route most proper for the transportation of the mail between Maine and Georgia, with an estimate of the expense of making said road. On the third of May, of the same year, Mr. Madison presented the following bill, which afterwards passed the House without a division:

"*Be it enacted, &c.* That the President of the United States be, and he is hereby, authorized to cause to be examined, and, where necessary, to be surveyed, the routes most proper for the transportation of the mail between the following places, to wit: Portland, in Maine, Boston, New York, Philadelphia, Wilmington, Baltimore, City of Washington, Alexandria, Fredericksburg, Richmond, Raleigh, Louisville, and Savannah, in Georgia; and that he cause a report of such examination and survey to be laid before Congress, together with an estimate of the expense necessary for rendering said routes the established routes for the transportation of the mail."

The second section appropriates five thousand dollars for defraying the expenses of the examinations and surveys.

It will be seen, sir, that this bill not only provides for surveying the route of a road from one extreme of the then Union to the other, passing through all its principal cities and towns, but it requires an estimate of the expense to be made for rendering the routes mentioned the established routes for the transportation of the mail. It contemplates, in clear language, the construction or making of post roads under the authority of Congress. Let me now ask whether the warmest advocate for internal improvement ever insisted on a greater latitude of constructive power of the constitution than is contained in the principle of this bill. It not only goes the full length of all that we now contend for, but it sustains every position which has been disputed in this House heretofore. It authorizes surveys and the making of roads, and it assumes jurisdiction without the consent of the States. When we consider that this extensive project was introduced but a short time after the adoption of the constitution, and by a man who was chiefly instrumental in its creation, who labored to defend it with as much zeal and ability as any who lived, that it was adopted by a body, without a division, who probably better understood the extent of the powers intended to be granted than any which has succeeded it, will it be believed that it contained an assumption of powers not granted, and that it violated the rights of the States? It has been reserved for politicians of the present day to make this discovery—men, whose ingenuity and eloquence we may admire, but whose nice and subtle distinctions, mystifications, and abstractions, cannot be easily understood by those who pretend to nothing more than plain common sense. For us, who desire nothing more than that the resources of our coun-

try shall be developed and brought into full activity, we are content to follow the path which the statesmen of the revolution have sketched, convinced that, by steadily pursuing it, we shall best attain the objects of the social compact.

The gentleman from Virginia (Mr. BARBOUR) says that the bill under consideration contains a new principle, not known before in this House, and that we are about to take "a new latitude and departure." He considered the Cumberland road as affording no precedent, because it was the result of an agreement between the States of which the Northwestern Territory was composed and this Government, by which two per cent. arising from the sales of the public lands was to be employed in making roads leading to and through those States. Yet it will be recollected that the gentleman distinctly admitted a position taken by my friend and colleague, (Mr. HEMPHILL,) that the consent of the States was not to be regarded, as they could not confer any power on Congress, except in the cases mentioned in the constitution, and that every other compact between them was a nullity. With this admission, I cannot understand how he can attach any importance to the agreement respecting the Cumberland road. By his own showing, it is evident that this Government did not derive its right from that source. How, then, does this bill differ from the bill authorizing the construction of the Cumberland road? and how does it differ from Mr. Madison's bill? But the gentleman, while he professes to be fully aware of the value of good roads and canals, contends not only that the power to make them does not belong to this Government, but that it ought not to belong to it—that they had better be left to the enterprise of individuals or to the States. The gentleman will find but few to go with him on that broad ground, even in his own State. It will be recollected that when the attention of Congress was called to this subject, by Mr. Monroe and others, while they admitted that the right already existed to appropriate money in aid of incorporated companies, denied that it extended further; but as it was deemed of essential importance to the welfare of the people that roads and canals should be constructed under the authority of this Government, they strongly recommended an amendment of the constitution, so that it should be expressly granted.

It was apparent that great national works, extending to remote parts of this Union, could not be executed by companies or by States, even if their resources were adequate to them; that rival interests existed everywhere, each State exerting itself to divert commerce to its own commercial emporium, or to some other point least advantageous to its neighbor State. And even in case of the union of two or more States for this purpose, the common good of the whole Union would be the least object of their thoughts; nay, routes might be chosen, positively injurious to the whole. It might happen, too, that distant streams and States could be united by roads and canals, by which, from peculiar localities, the greater part of each State through which they were designed to pass, would not feel interested, rather looking upon injury than benefit as the result, while to the nation at large the connection would be of the highest importance. For these and other reasons which might be mentioned, no opinion appeared to be better founded than Mr. Monroe's, that the power to make roads and canals, with jurisdiction over them, should reside in the Government. But the gentleman from Virginia has come to a different conclusion, and seems alarmed at the consequences of encroaching upon State rights, and the accumulation of power in the General Government. To me, (said Mr. I.,) this feverish excitement about State rights and Executive patronage seems altogether chimerical. Look into the papers published, and to the speeches made in certain conventions before the adoption of the constitution, and you will find the same evil forebodings, and the same alarming apprehensions. And yet we have gone on prosperously in peace, and successfully in war, for more than forty years, without one of those being impaired. How, indeed, could it be otherwise, when every member of this Government, except such as compose the judiciary, returns at short intervals to his respective State? The members of Congress, in which reside all the high powers of sovereignty, bring with them here—State attachments and State pride; they act under a sense of high responsibility to their constituents and to their State; they remain here but for a few months, return, and mix with their fellow-citizens; with them every motive conspires to urge them to resist, not to suffer, an invasion of State rights. Usage and public opinion have limited the term of the Executive to eight years, at the expiration of which he returns to his State. Your judges are scattered over the Union, citizens of their respective States. All of them, presidents, legislators, and judges, have their families, friends, endearments, and attachments in their respective States—their homes—where they find their earthly resting places. Gentlemen talk of our National and State Governments, as if the former were a distinct people, to whom certain powers were conceded, but, not content with their enjoyment, are constantly aiming to enlarge them at the expense of the rights of the latter. But view them as the same people, a portion of whom at stated periods exercise certain delegated trusts which a common feeling of interest urges them to restrict rather than enlarge, and the suggestion will cease to have any force. Equally illusory are the fears of Executive patronage, which the gentleman from Virginia so strongly deprecated. It is common to speak of this; but I ask for proof of its having been exerted under any administration, and, if exerted, with what effect? Do

your officers of the army and navy interfere in elections? or have you seen the judges of your courts canvassing for votes to subserve the purposes of the Executive? The most powerful motives that could animate the human heart, existed to sustain the administrations of the elder and younger Adams; but with what effect? What did patronage do in these cases? Sir, it is a mere phantom, which has no terrors for a free and vigilant people. Take one of the eight thousand postmasters that the gentleman from Virginia has spoken of, and see what influence he is able to exercise in any city or town. It will be found, in most instances, that the person so situated can effect less, at any election, than if he had not an office. There is a watchful jealousy among the people, which repels any undue or even active exertions of men in official stations to control or sway the elections. We have nothing to fear from them. As to the unequal distribution of the revenue, which, it is said, the system of internal improvement gives rise to, I answer, that the same may be said of every other branch of public expenditure: fortifications are erected on our coasts and frontiers most exposed to attacks; light-houses, breakwaters, &c., on the seacoast. These, and many other works, do not immediately benefit the interior; but in these and all other erections and improvements, regard is had to the general welfare. Whatever gives life and vigor to the whole system, must be beneficial to its parts; in like manner, the healthful action of the heart communicates its tone to the extremities. We have been told, too, that, by the reduction of duties upon tea and coffee, and certain luxuries of life which do not interfere with our domestic industry, as is proposed by a bill on our table, the revenue will be so much reduced as to leave no surplus beyond the ordinary demands of the Government. But it should be considered that the bills alluded to are prospective in their operation; and even if it were otherwise, I do not apprehend any very great diminution from the proposed measures. The great increase of population must create a proportionate demand. In aid of this, there is a law of political economy which is universally true, that the capacity to buy, from the comparative cheapness of the commodity, increases its consumption; in other words, the reduction of a duty will, in a corresponding ratio, increase the demand. After paying all the ordinary expenses of Government for the current year, and applying eleven millions five hundred thousand dollars to the public debt, the Secretary of the Treasury estimates that there will be a balance in the Treasury on the first day of January, 1831, of four millions four hundred and ninety-four thousand five hundred and forty-five dollars. It is, therefore, apparent that two millions of dollars may, with perfect safety, be applied annually to internal improvements, leaving enough from all the sources of revenue, and the operation of the sinking fund, to extinguish the debt in five years. My constituents have no immediate interest in the road mentioned in the bill; from the nearest part of my district it is at least one hundred and eighty miles. But I advocate it because it is part of a great system which I consider this Government under the most solemn obligations bound to persevere in. The road, from this city to New Orleans, is not a new project; it was earnestly brought into view by Mr. Calhoun in 1818, in support of a bill which he introduced into Congress, to set apart, and pledge as a fund for internal improvement, the bonus and United States share of the dividends of the National Bank. In a report which the same gentleman made while Secretary of War, it is noticed as one of the prominent national objects, and it has never since been lost sight of by the Committees on Internal Improvements of this House. By cherishing a spirit of concession, and merging all minor considerations in the great one of making a beginning upon the principle contained in the bill, its friends cannot fail to effect its passage. When we reflect upon the amazing extent of our country, the diversity of interests and occupations of its inhabitants, and examine the barriers which its geographical features present to direct and easy intercourse, we must come to the conclusion that it is impossible to bind the different parts together in any other manner than by good roads and canals extending from the centre to the extremities of the Union. By these means we shall be able to preserve the sympathies of our nature, which distance is too apt to sunder.

But we will realize their advantages chiefly during war, when the Government is compelled to rely for most of its revenue upon a system of internal taxation, its ordinary fiscal resources being in a great measure cut off. The effect of this system is to drain the interior of the country of its currency, and to direct it to the seaboard, or to places where troops are collected for the defence of exposed situations on the frontiers. It will be recollected that no part of the interior of the United States was, during the late war, exempted from this evil; it operated peculiarly hard in the western part of Pennsylvania; specie in fact disappeared, and a miserable paper currency was substituted for it, flooding the country, and with its natural tendency for depreciation, ruining thousands of the best part of our population—the farmers, the honest yeomanry of the country, who, in such a state of things, are always the greatest sufferers. It is the part of prudence to guard, as far as practicable, against a recurrence of so much suffering and calamity. We cannot, it is true, prevent the drain of our currency, that is the inevitable effect of direct taxation; but we can, in a great degree, mitigate its effects, by giving to our people cheap and easy means of transporting their produce and stock to market; to that market where troops may be assembled, and where there is the greatest public expenditure. If you deny them these means,

you expose them to incalculable injuries, it will be impossible to satisfy the tax gatherer; judgments and executions will speedily follow; but all are nearly in the same situation; and where are the purchasers to be found? The earnings of years of honest industry will be swept off in a moment, for a sum sometimes insufficient to pay the cost of collection—always vastly disproportioned to the value of the property, either to enrich the cunning speculator, or to add to the already overgrown wealth of some nabob, or to increase the public lands and stock to remain unproductive, until better times shall enable them to sell for sums equal to their claims. A Government expressly instituted to promote the happiness and welfare of all its citizens, should provide in a time of peace, when its resources are abundant, against such ruinous consequences. In this way it will best secure the lasting attachment of the people.

The gentleman from Virginia, (Mr. COKE,) in speaking of the probable expense of the proposed road, said that the Cumberland road cost the Government fifteen thousand dollars per mile. He has fallen into an error. The whole distance of the road is one hundred and thirty-five miles; its aggregate cost one million seven hundred and two thousand three hundred and ninety-five dollars, which is equal to twelve thousand six hundred and ten dollars a mile. At a proper time, I will, I trust, be able to show to the House that no sum of money of equal amount has ever been expended with greater advantage to the country. But it is proper to say that at the time this road was commenced, this Government had no experience in the business; few possessed the requisite skill for it; then, and for many years afterwards, provisions were dear, and the wages of labor near one hundred per cent. beyond its present amount. What added greatly to the cost of this road, is the number of bridges, some of which are built in a style of superior and expensive workmanship, exhibiting monuments of architectural skill not surpassed in any part of the Union. The continuation of the Cumberland road from Wheeling to Zanesville, which is made upon the McAdam plan, and is said to be the best road in the United States, cost, I am informed, about six thousand dollars a mile. But the expenditure upon works of this nature is of secondary consequence. If a harbor is found necessary for the safety and convenience of our shipping, if a fortification is wanting for our defence, the expense of constructing them would not be regarded. There is a paramount duty which the Government owes to its citizens, compared to which, gold and silver should weigh but as dust in the balance. They claim from it protection at any price; and they ask the same measure of justice, I will not call it liberality, in making such improvements as the situation of the country admits of and requires, which State and individual enterprise is unequal to, and which are strictly of a national character.

The perseverance in this system of internal improvements, it has been said, will give rise to a claim of jurisdiction by the United States over the roads they make, which will end in the erection of toll-gates, and the enforcing of penalties, not by State authority. Claiming, as I do, for this Government, the right to make roads and canals without the consent of the States, it must follow that, after they are constructed, it has a complete right to preserve them by such means as it chooses to select. If I am right in assuming, for I have already said that I do not mean to argue it, that the constitution has given to Congress the principal power, the incident must follow; nor is it at all probable that any injurious consequences are likely to arise from the exercise of it. The authority to establish post offices and post roads impliedly confers the right to protect the transportation of the mail by the imposing of penalties. For this purpose various laws have been passed, and punishments have been inflicted, without any complaint from a State, and, as I trust, without injury to it. Nor would any greater evil happen by punishing a man in the United States courts for an injury done to the road. Offences of this kind would be of rare occurrence: when it was known that the presence of vigilant gate keepers would probably prevent escape, and that speedy punishment would inevitably follow, little mischief would be done. There is scarcely an instance of an indictment in our State courts for injuries done to roads belonging to corporations, and the reason that prevents their occurrence would apply to a road laid out under the authority of the United States. Besides, there could be no valid objection to conferring jurisdiction on the State courts to punish transgressors. Congress gave them power to entertain suits, to collect the internal revenue, and to enforce penalties under a clause in the constitution, declaring it the supreme law of the land, and that the judges of the State courts should be bound thereby. This power, I admit, was by some of the States disputed; but surely it would be going too far to say that evils were likely to arise from the exercise of it. And if there should be a disposition in any State to refuse the jurisdiction, offenders would have no right to complain if they were sent to the United States court for trial. Seldom, indeed, would there be occasion for such a proceeding; but if a case should arise, demanding it, is it likely the criminal would talk of its hardship? And, if not, who would be quixotic enough to complain for him? The jurisdiction of the United States over their roads, whether they should exert it by direct appropriations to keep them in repair, or by the erection of toll-gates, cannot be a cause of the least apprehension to the States, no more than they now feel from the punishment of a mail robber. It is impossible that injury can arise from it.

The gentlemen from Virginia who have spoken on the other side of the question, have

indulged themselves in a warmth of feeling and an asperity of remark, not warranted, in my judgment, by the occasion. If the purposes of the bill should be answered, or if the system, of which it is part, should be pursued, the design is of the most laudable character, and entitled to no common praise; the end, the development of national resources, the promotion of social intercourse, the diffusion of substantial benefits—in a word, the prosperity of the confederacy. Yet it has been received as if some signal calamity was about to be inflicted, carrying in its train famine and pestilence and desolation. Are they afraid that the march of the system will realize all we hope and all we predict for it; and that "their occupation will be gone?" If, sir, I mistake not the "signs of the times," a great revolution is going on in public opinion, in the South, on this question; and the day is not very remote, when Virginia will concede to this Government all that the most sanguine friends of internal improvement could desire. One of her distinguished statesmen, now a member of this House, has for years devoted his time and talents to the cause. Every day furnishes new evidence that his patriotic fellow-citizens are yielding the prejudices that would lock up the bounties which a beneficent Providence has so profusely scattered over our land. He merits the lasting gratitude of his countrymen, the richest reward of a public benefactor.

The productions of our country which soil and climate have already made so various, are becoming daily more diversified, ensuring, at no distant day, a home supply of most of the luxuries as well as the necessaries of life. An important advantage which this view of our condition and prospects gives rise to, is, that the different parts of our Union will be made dependent on each other—an invariable effect of mutual wants. Nothing, therefore demands from us higher regard or more deliberate consideration, than the means of uniting our whole people into one great commercial family.

But it is unnecessary to dwell longer upon the beneficial consequences of an extended system of internal improvements; they must be familiar to the members of this committee. I have endeavored to avoid noticing the points which have been urged by others in support of the bill; and having reason to fear that the committee is already fatigued by a long discussion, I will conclude with thanking them for their attention.

Mr. MONELL next rose. He said he had waited until this late period of the debate on the bill, in the hope and expectation that some one of his colleagues, more competent than himself, would give to the committee the views which he knew a large majority of the delegation of New York, in unison with himself, entertained upon this question. No one (said Mr. M.) has felt disposed to do so; and as I cannot consent that the vote on this bill should be taken without the expression of an opinion from the State I have the honor, in part, to represent, I have, reluctantly, obtruded myself upon the attention of the committee.

As I am the warm friend of internal improvement by the States, and have at all times, and on all occasions, whether in public or private life, supported every measure which I believed would benefit the citizens of my native State, it is necessary that I should give the reasons that will influence my vote on the present bill. Sir, the State of New York, unaided by the General Government, has advanced far in this system. She has connected her northern and western lakes with the majestic Hudson, and I trust will continue to progress until she extends its blessings to every portion of her citizens. Although she has advanced far, and elevated her character to a prominent station among her sister States, she has not done half that the wants of her citizens require, or the means she possesses will authorize. My immediate constituents are now anxiously looking to their legislature for that justice they believe themselves entitled to—an improvement along their lovely valley, which will place them on the level with other portions of the State. I trust they will not be disappointed.

Soon after this nation passed through a second war of independence with honor and renown, the State of New York, suffering as she had in that contest in blood and treasure, and believing herself entitled to the favorable notice of Congress, from the aid and support she had given to strengthen the arm of the General Government, applied for aid to enable her to prosecute the great works of internal improvement he had long conceived, but which were retarded by the breaking out and continuing of that war. What was she told by this Government? Although her good and faithful service was admitted, her losses and privations appreciated, yet it was unconstitutional to aid in the construction of roads and canals. She submitted to the decision, and, nothing daunted, rested upon her own resources to accomplish that which her citizens had willed should be accomplished. For one, I rejoice that she is not indebted to this Government for aid. By your refusal, the resources of the State have been developed; the patriotism of the people exhibited; the sound hearts and willing hands of her citizens enlisted to elevate her character, and place her upon an eminence that her extensive possessions and fertile soil intended she should assume.

What was unconstitutional when New York applied for aid, has, by the change of time and of men, become constitutional now. By the construction given to the constitution by modern statesmen, all power is vested in this Government. The doctrines contended for in former days are exploded, new ones have taken their place; and, under them, this Government is extending its influence over every part and portion of what was once considered independent State sovereignty: the rights of the States

are merged in this grand consolidated Government. I will not enter into the discussion of the abstract constitutional right of this Government to make roads and canals in the several States, without the consent of the States or the people. It has been assumed, and exercised so often, that, until some express provision to the contrary shall be made in the constitution, it is worse than useless to question the power. The advocates of the right do not claim it by express grant, but by implication and construction of different parts of that instrument It is claimed under the power to provide for the common defence and general welfare; under the power to regulate commerce among the several States, and with the Indian tribes; under the power to establish post offices and post roads. I have always doubted whether this Government, under any or all of these powers, could exercise the right of making roads and canals. On more occasions than one, have I listened to the arguments of the ablest men of the nation, on this much-disputed, nice question of constitutional law. Although I will not discuss the question of abstract right, I may be permitted to deny the expediency of its exercise by this Government. The exercise of this, and all other constructive rights, claimed by this Government, should be narrowly watched by the representatives of the people. Our duty to our States and our constituents requires it at our hands; and yet it appears to me, that, when we assemble here as the Congress of the United States, we forget home—we forget State rights, and lose State feeling. Our whole thoughts are directed to the mighty power of this all-absorbing and controlling Government, regardless of the feelings of our constituents, or interests of the States; we exercise not only all the powers given to us by express grant, but every other which, by implication or construction, can be tortured into a right. I beseech gentlemen to pause and reflect. If this Government does possess the power contended for by its advocates, let it be discreetly exercised, and only on acknowledged great national objects.

Under the power to regulate commerce among the several States, and to lay imposts and duties, this Government assumed the right to compel the canal boats on the New York canals to pay transit duty. In 1824 or 1825, orders were issued by the Treasury Department to the collector at Buffalo, to enforce the collection of duties. I well remember the feeling created in New York; her citizens from one end of the State to the other, were prepared to resist what was considered as an encroachment upon State rights; even her legislative halls resounded with the language of resistance, and a perseverance at that time, on the part of this Government, would have brought that State in direct collision with the General Government. Strong protests were entered by the representatives in Congress, from New York, against the assumed power, and great exertions were made by the Governor of the State to procure a withdrawal of the order. It was countermanded, but the right to enforce the collection of duties was not surrendered; it was suspended for the time being, to be enforced whenever the will of this Government shall direct. You have established your ports of entry in every part of her State—at Buffalo, Rochester, Sackett's Harbor, and I know not how many other places—upon every stream and rivulet—upon tide waters and inland lakes—in every city and town that you please to consider commercial; swarms of officers, to execute the laws and collect the revenue, are stationed among the people. Under the power to regulate commerce, and lay imposts and duties, you claim, and may, at some future day, enforce, the power to collect duties on every canal made by State authority; and what is to prevent you? The broad and unlimited construction of constitutional power claimed, will cover every act of oppression, and usurpation of State rights; thus gradually, but certainly, will every vestige of State rights and State interests be swallowed up by the constructive powers of the General Government. Under the power to lay imposts and duties, to regulate commerce, and to promote the general welfare, the whole revenue of State canals may be claimed. Now your Treasury is full, and it is not needed; but let war exhaust it, let commerce be impaired, or, what is most probable, your funds squandered in visionary schemes of internal improvement, and the particular welfare of the States must surrender to the general welfare of this Government. The States must stand in the relation to the United States that individuals do to the States—bound to yield a portion of what they have for the general welfare. Sources of revenue, which they fondly hoped would support their own Governments, and enable them to extend the blessings of internal improvement by their own authority to every portion of their citizens, will be diverted from their proper channels, and poured into the Treasury of this Government. Can New York, consistent with her honor or her interests, submit to such degradation? Is Pennsylvania, with her numerous canals, prepared to surrender all to this Government? I trust not. Sir, where is the remedy? I answer here, in this hall. We must halt in our course—we must confine this Government within its primeval legitimate bounds—we must restore it to the powers that were exercised under it in the days of Jefferson's administration.

It is contended that the power to construct roads and canals is given by the clause in the constitution authorizing Congress to establish post offices and post roads. Great pains have been taken to give us the definition of the word establish. Dictionaries have been consulted—Walker, Ainsworth, and others. It is defined to mean "to erect, to make," &c. We have heard labored arguments to show us, because the meaning of the word establish is

defined to be "to make," that Congress has the power to make post roads. Sir, I will not say that these words may not be tortured into such construction, nor offer any argument on the constitutionality of the doctrine. Yet I must be permitted to doubt that any such power, under these words, was intended by the framers of the constitution to be given to Congress. The plain and obvious meaning of that clause is that which is yearly exercised by Congress—the establishment of post routes on roads erected and made by the people, and on which, for public convenience, it is thought necessary to transport the mail. In the remarks I have made, I have endeavored to show to the committee the inexpediency of Congress exercising all the powers which, by construction or implication, are claimed as belonging to this Government; and particularly as such exercise affects the rights and interests of the States. As a further illustration of my views, I will suppose my colleague, who resides at Buffalo, to offer to this House the following resolution:

"*Resolved*, That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of establishing a post route from Buffalo to Albany, by the way of the Erie Canal."

It is referred to the committee, at the head of which is the honorable gentleman from Kentucky. Congress having the right to establish post offices and posts roads, and waters navigable, or made navigable, being considered highways, the reasoning follows the premises, that Congress has the power to establish a mail route upon the Erie canal. It has been decided that the Hudson River is an arm of the sea, and jurisdiction has been so far extended over the waters of New York, as to establish ports of entry on the western lakes, the Erie Canal connecting the tide waters of the Hudson with the waters of Lake Erie; it, therefore, becomes necessary, that commerce should be carried on between the States. A law is passed, in obedience to the resolution; and a boat is started at Albany, on the tide waters, with the "United States mail," in capitals, upon her stern. She approaches the first lock, and is hailed, "what boat is that?" "The Congress of the United States." "Who is her commander?" "General Welfare." "What is the object of her voyage?" "Regulating commerce among the several States and with the Indian tribes, transporting the United States mail, and conveying troops to the northern lakes." The collector would say, this canal is the property of the State of New York; it was made by the exertions of her own citizens without any foreign aid, and you cannot pass without the payment of toll. To which "General Welfare" would reply that Congress has power to regulate commerce and establish post offices and post roads; a post route has been established on this canal, and you will not presume to interrupt the United States mail. The people of New York look to the law for protection and decision of all disputed claims. On the return of "General Welfare," he is arrested in our State courts. I will not trouble the committee with a long detail; the State courts decide in favor of the toll gatherer; it is carried up to the Supreme Court of the United States. I need not give you the decision. When did State decisions or State rights succeed in opposition to the laws of Congress, or to the constructive powers of this Government? Let Kentucky, Ohio, New York, and other States answer.

I am opposed to the exercise by Congress of this disputed right on another ground: it is unequal and unjust in its operation. During the last year, disregarding fractions, there was received into your Treasury twenty-four millions of dollars; for all the ordinary purposes of Government, twelve millions are sufficient; and, with proper economy, that sum need not be expended. You have then a surplus fund of twelve millions beyond the amount required for the expenses of Government, to be scrambled for in this hall, and expended, according to present doctrines, in internal improvement. You have two hundred and thirteen members from the States, and three delegates from territories; divide this amount into two hundred and thirteen districts, and you will give annually to each congressional district fifty-six thousand dollars. By this division, New York, with her thirty-four members, would be entitled annually to two millions of dollars. Pennsylvania, with her twenty-four members, to one million four hundred and forty-four thousand. Virginia, with her twenty-two members, to one million two hundred and thirty-two thousand. Will any course of legislation here give to these States a fair proportion of the surplus funds by way of internal improvement? Certainly not. This miserable pittance to New York, of a road from Buffalo to the State line of Pennsylvania, is but a sorry return for the four millions she pays annually into your Treasury. As it is the first, so for many years it will be the last boon that will be offered for her two millions annual surplus in your Treasury.

Give to New York, to be applied by her Legislature, one-half of her just proportion of this surplus fund. Let it be placed in the treasury of her own State, and in ten years she will extend the blessings of her own system of improvement to every village and hamlet in her State, and gladden the hearts of her people; it will be expended in useful works, in national objects, and promote the general welfare of the people.

I come now to the question of the utility of this gigantic project of a grand land communication from Buffalo to New Orleans, and must say that, to my mind, it is the most extravagant and visionary one that ever was presented to the deliberate judgment of a representative assembly. It is to be made through the interior of the country, fifteen hundred miles in length, and from its commencement at Buffalo, the first seaboard, the first commercial place it

touches is the city of Washington, a distance of some four hundred miles. Can any man believe that the trade from Buffalo, or any part of New York, will be diverted from the city of New York by this road? or will Pennsylvania or Maryland prefer Washington for a market to their own Philadelphia and Baltimore? Look to the improvements of New York, Pennsylvania, and Maryland, their railroads and canals, and the most visionary must be satisfied that this contemplated road cannot be used for commercial purposes. It is said, by its friends, that it will be useful in the time of war to march troops to the frontiers. I trust we shall not need it for that purpose for many years to come; and if we should, New York desires troops from Washington to defend her frontiers. No, sir, there is no beneficial purpose for which this road can be used; it will be a lasting monument of a nation's folly, and receive the worst curse which an Irishman can bestow upon his enemy—the grass will grow upon its surface. Again: What is to become of the road after it is made? Do you intend to place toll gates upon it? That power has not yet been assumed upon your Cumberland road. But suppose you should assume jurisdiction over State soil, and scatter your toll gatherers over the States; what will you receive? Not one per cent. You cannot keep it in repair by tolls. What next? The Government must appropriate, annually, one million of dollars to repair it. By the bill fifteen hundred dollars per mile are appropriated; but no friend of it will pretend that is all that will be asked. Let the faith of the nation be pledged for its construction, and you will be required, annually, to appropriate money for its completion, until it will cost as many thousands as hundreds are now asked. Will the States, through which it passes, take it off your hands, and keep it in repair? *No.* The States know it will not yield revenue sufficient to do so. They will tell you it is your own sickly bantling, and your faith is pledged to support it.

It has been said out of this hall, that this is a part of the "American system;" and I have been urged, as a friend to that system, to support this bill. It is called the pioneer bill, in the train of which numerous others are to follow.

If by the "American system" is meant a system of laws which shall be for the benefit of the American people, and as nearly as may be operate equally and justly, then am I its friend and advocate; but if by the system is meant that I am bound to support every wild and visionary road project that the imaginations of gentlemen here or elsewhere may present to the consideration of Congress, I must be permitted to dissent and enter my protest. As a member of the Committee on Manufactures I cordially agree to the resolution submitted to the House, "that it was inexpedient at this time to revise the tariff law of 1828." I then believed and now believe, that justice to the manufacturers and sound policy required the suppression of further legislation at this time. These are, however, articles which have become necessaries of life from their common use, such as tea, coffee, silk, &c., which are not grown or manufactured in this country, or, if so, to a very limited extent, and not interfering with the domestic industry of the nation. By reducing the duties on the articles I have mentioned, you will relieve the people from several millions of indirect taxation, and retain in your Treasury more than sufficient to meet the current expenses of the Government.

There are two situations in which Governments, like individuals, are frequently unjust: in adversity, with a heavy debt hanging over them, and in prosperity, suddenly and unexpectedly acquired; in the one case, pressed to discharge claims out of their power to meet, they prevaricate, and refuse justice when it is due; in the other, their funds are profusely squandered and their money lavished upon unimportant and useless objects. The latter is the present situation of this Government. You have an overflowing Treasury, and you know not what to do with your surplus funds. Now, sir, as I am one of those who do not consider a national debt to be a national blessing, I propose to discharge your national debt—pay off every shilling—take up the last bond; it will be the brightest star in the galaxy of your renown. Exhibit to the world the bright example of a nation, not sixty years old, having passed through two expensive and lengthy wars, and free of debt. When that shall be accomplished, (and we are assured it will be in a few years,) our manufacturers will have acquired strength sufficient to compete with their foreign opponents, and will themselves unite in the propriety of a gradual but certain reduction of duties until the revenue shall only be equal to the necessities of the Government, and the people relieved from heavy burdens.

Mr. ANGEL said it was with great diffidence he rose to address the committee. It was his first attempt to speak upon that floor, and it was with much difficulty he had raised his courage to the speaking point. We have been several days (said Mr. A.) engaged in the discussion of this bill. I have listened with strict and painful attention to the arguments urged in favor of its passage. I have witnessed, with astonishment and with alarm, the ardent zeal with which its friends are hurried forward. Reluctant as I have been to engage in this discussion, I could not sit here quietly, and in silence see the screws turned upon the people. I could not see burdens unjustly and unwarrantably imposed upon my constituents, without protesting against it.

I consider this system of legislation cruel, unjust, and oppressive. I consider it as fraught with the most dangerous tendency, and as leading to the most disastrous consequences. My feelings are such, that I cannot repress them when I see the fruits of honest industry about

to be coined into dollars and cents, and squandered by a profligate hand upon projects which are useless and idle. I have prepared an amendment to this bill, which I intend to offer at a proper time, if the motion to strike out the first section does not prevail. If gentlemen are determined to force the bill through, right or wrong—if they are determined to plunder the Treasury, and pursue a course of public rapine, I feel anxious that the State of New York should not participate in the disgrace. I believe this is the first attempt of this Government to force her system of road-making into that State. The small section of this road which is to be located within her limits, appears to be intended as an offer of earnest-money, to bind her to the unhallowed compact. I protest against the whole system, and particularly against this attempt to contaminate that State. Should this bill pass in its present shape, I should consider the intrusion into our territory as a bane to our prosperity, a poison to our happiness, and the destruction of our tranquillity. As soon as an opportunity shall offer, I will move to amend the bill by striking out the words "Buffalo, in the State of New York," and inserting "the northern boundary of the State of Pennsylvania." This amendment would exclude New York from the bill and from its contamination. We ask not, nor do we need, your aid in the construction of our roads and canals. We desire you to confine yourself to your proper sphere of legislation, and not to interfere with the internal regulations of our State. We will willingly and cheerfully pay all the taxes and bear all the burdens which you may constitutionally impose upon us; we will not rebel—we will raise no insurrection—we will not threaten a dissolution of the Union; but when you oppress us by your unjust, unauthorized, and partial legislation, we will tell you of it. We will boldly and fearlessly protest against your encroachments, and we will not withhold our remonstrances when you extend the arm of oppression over us. We will tell you of our wrongs; as an independent State, we will assert our rights; and we will never hang about your halls of legislation, in the character of supplicants and beggars, watching for the crumbs that may fall from your table.

Following the example of gentlemen who have preceded me in opposition to this bill, I will refrain from discussing the constitutional power of this Government over the subject of internal improvement. The arguments upon that subject have been worn thread-bare; they have been again and again repeated; the subject has been exhausted in the hands of abler men, and I feel myself incompetent to shed additional light upon the question. The omission to discuss the constitutional question in this debate appears to have been assumed by the friends of the bill as the giving of a cognovit to their claim of constitutional power. Sir, I wish those gentlemen expressly to undrestand me as not yielding my assent to their constitutional doctrines. I wish them to understand that I sign no cognovit to their unfounded claim, but that I insist that if this bill becomes a law, that law will be the offspring of usurped authority.

Gentlemen have said that Congress, by its enactments, has settled the constitutional power of the Government in relation to internal improvements. Can Congress confer a new power? Can Congress rule the constitution? That instrument was designed to control the powers of Congress. Can one act of usurpation be pleaded as authority to justify the commission of another? No. The constitution remains what it was in the beginning—it is the same now that it was at the time of its ratification by the States. It remains unaltered, nor can it be altered but by the consent of three-fourths of the States. For that instrument I entertain the highest veneration. I will not suffer myself to trample upon its authority. Each infraction of its provisions by Congress is a signal for the downfall of our liberties.

This bill is entitled "a bill for constructing a road from Buffalo, in the State of New York, by the way of Washington, to the city of New Orleans." When I look into the provisions of this bill—when I see the stretch of authority there attempted—when I consider the profligate expenditure of money it proposes—when I reflect upon the burden it casts upon the people—when I view its partiality, its cruelty, its injustice, and its usurpation, and compare all with the constitutional powers of this Government, the title strikes me as being inappropriate. The title is wrong. It should be entitled "a bill to construct a road from the liberties of the country, by the way of Washington, to despotism."

It is not a road which the interest of the country calls for; the public good does not require it. Gentlemen have said it was necessary for the safe and easy transportation of the mail, for the marching of troops, for commercial intercourse, for the advancement of national prosperity, and the promotion of the general welfare; but when you contrast its advantages with the principles upon which it is to be constructed, with the cost of its construction and perpetual repairs, it looks more like a road to ruin than a road to ease and safety. I have an abhorrence to this species of legislation that I cannot overcome; it has grown out of long reflection and a careful consideration of the subject. Its tendency is pernicious; it begets collision and strife; it produces heart-burning and ill blood between different States and sections of the Union. These effects do and will unavoidably attend it. If, in estimating the consequences, I have come to an erroneous conclusion, I have to regret it. The correctness of my conclusion appears to be supported by the sensitiveness manifested by gentlemen in this House whenever this subject is agitated. Do we not see the warmth of feeling

and heat of temper it elicits? Its discussion calls up the image of discord, and exhibits an acrimony of feeling and temper, which spends itself in accusing invective and keen reply. It should be our business here to harmonize, and not to distract; we should avoid those subjects which set in motion the discordant feelings of sectional interests. It should be our aim to strengthen the cord of union, and, by a kind and conciliating exercise of our legislative functions, secure the confidence and attachment of the people and of the States.

Partial appropriations beget jealousy and distrust, and destroy confidence in Government. The people will not rest quietly under oppression, when they see the fruit of their hard earnings bestowed upon objects in which they have no interest, and which are in themselves worse than useless. They will complain; their attachments will be alienated, and the federal power become odious.

This bill appropriates fifteen hundred dollars per mile for the construction of this road; the length of the road is great enough to swell the sum appropriated to two millions five hundred thousand dollars. This is but the beginning of the expenditure. This sum bears about the same proportion to the ultimate cost of construction, repairs, &c., when the whole shall be completed, as the title page of a book does to the whole volume. This two and a half millions is but a single instalment, the payment of which is to be repeated year after year, by appropriation after appropriation, through a series of years, to terminate the Lord knows where. I have not heard it contended, even by the friends of the bill, that the proposed appropriation will cover the cost of the work. From the description given of the country over which the road is to pass, the streams that intersect its course, the swamps and the quagmires which lie in its way, it is evident that the cost per mile will far exceed the sum per mile expended upon the Cumberland road. The length of the Cumberland road now completed falls short of one-sixth the distance embraced by the road under consideration, and our statutes tell us that upwards of three millions have been expended upon that work.

This two and a half millions is to be taken from the avails of the revenue. Nearly one-half the revenue is collected at the city of New York: the citizens of that State, by the consumption of articles subject to duties, pay about one-sixth part of the whole revenue. The appropriation in the bill will impose a tax of at least four hundred thousand dollars upon the State of New York, which must be taken from the pockets of her citizens. The fruit of their labor, under the screwing operations of this Government, must be taken from them, and expended upon this sublime and magnificent road; a road which they will never travel, and which, whilst it forms a drain upon their purses, will never return a farthing into them. The passage of this bill will say to the citizens of New York, "pay four hundred thousand dollars as a tribute to our power, and prepare yourselves to meet future exactions of a similar character, when we see fit to make them."

The sum to be extracted from the State of New York, by this single appropriation, is sufficient in amount to enable that State, could she control it, to accomplish some of her most useful and favorite plans of internal improvement, and this is to be bartered away for a few miles of a great national road, cutting through a corner of her territory.

Let any gentleman look, for a moment, at the operation of this scheme, and then tell me whether he will have the hardihood to ask a New Yorker to vote for this bill. No, sir, I will not violate the public trust reposed in me: I will not prostitute my vote to the surrendering of the rights of the State. I will resist this attempt to force the shackles upon her. Were this a work of utility, and did there exist a reasonable prospect of its advancing the general welfare, the hardship would not be so great; but I repeat what my colleague (Mr. MONELL) has said, the project is wild, visionary, idle, and useless.

A few years ago, the State of New York applied to this Government for assistance in constructing her canal. Her then contemplated work was of a national character; it was no less than the connecting, by a navigable communication, of the waters of the great western lakes with the Hudson River, and uniting navigable waters extending from the Atlantic two thousand miles into the interior. What was your answer to this application? Notwithstanding the important link this work was to form, notwithstanding the increase of commerce it was to create, and notwithstanding the vast facilities it was to afford, you, in your warlike and other operations, told her that you had not the constitutional power to appropriate the funds of the nation to purposes of internal improvement. New York was satisfied with your answer; she neither murmured nor complained. She had too much patriotism, and too just a sense of your limited authority, to press you to a violation of that sacred compact which forms our bond of union. Taking you at your word, she believed you had decided in good faith upon her application, and she believed that your decision would stand as a controlling precedent in all similar cases. Upon the faith of this understanding, she resorted to her own energies, and, through a wise, prudent, and persevering policy, she has accomplished her grand design, and astonished the world by her success. She has taxed herself for this improvement: her own resources have met the current expense, and this Government has not been annoyed by beggarly applications for her relief. Whilst she has been expending twenty millions of dollars for these objects, and resting upon her own means to extinguish the cost, you have been lavishing the national funds upon interior projects in other sections of the Union;

the utility of all of which combined, will not compare with what she has effected.

Since the wisdom of this Government has fathomed the depths of its power, reversed its solemn decision, and entered the field of internal improvement, New York has been undergoing a double taxation. She has met the demands for her own improvements, and been cruelly compelled to pay for the one-sixth of yours. Accumulating burdens oppress her; she finds her hands tied, and her Treasury exhausted. She is compelled to impose a direct tax upon her citizens, to meet the current expenses of her Government, and to suspend the prosecution of some of her favorite works. In this embarrassing state of her finances, and whilst deploring her want of means necessary for the further prosecution of her favorite plans, you threaten, in addition to your former exactions, to rifle her of four hundred thousand dollars by this bill, and to perpetuate your oppression.

Sir, I hope the motion to strike out the first section of this bill will prevail: if it does not, I will offer the amendment I mentioned, at the earliest opportunity.

As a representative from the State of New York, I protest against the power of this Government to pass this bill into a law. I protest against its partiality, and against its prodigal waste of the public treasure. New York has patiently and quietly borne all the burdens you have cast upon her. Her attachment to the Union forbids the thought of estranging herself from you. She asks you to return to those principles which governed your councils in deciding her application.

If you have a surplus in your Treasury, she asks you to apply it to the payment of your national debt, and, when that shall have been done, if a surplus still remain, she asks you for a just and equal distribution.

Should you refuse this request, and continue your present system of legislation, regardless of her rights, to say the least of it, she will take it most unkindly.

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Mr. STORRS, of New York, renewed the motion to strike out the enacting clause, and proceeded to offer his reasons for being opposed to this bill, although now and always an advocate of the constitutional power of internal improvement.

Mr. BOULDIN had no prepared speech to make on the subject; he had no note of what had been said on it by others; but the deep interest felt by those who sent me here, (said Mr. B.,) in the question now under consideration—an interest felt by them in common with all the growers of cotton, rice, and tobacco, in this Union, forbids that I should give, entirely, a silent vote. The evils, both moral and political, which must and will arise from carrying the principle of this into practical effect, from executing a general scheme of internal improvement, have been set forth so clearly by my colleague, (Mr. BARBOUR,) the inexpediency of the proposed measure proved by arguments so strong and clear, that nothing would be needed to exemplify, extend, or apply his views, were I able to execute such a task. And as it regards the road now proposed, from Buffalo, by the way of Washington, to New Orleans, if any thing had been wanting to prove its inutility, I had almost said its absurdity, when compared with its cost, the same has been most amply supplied by the gentleman from New York, (Mr. STORRS,) who, though a friend to the principle of the bill, proves that the measure itself is anything else rather than wisdom. I have but a single additional view of this case to present to this committee. Sir, my constituents, together with the growers of two-thirds of the whole exports of this Union, have regarded and do regard the proceedings of the present Congress with much anxiety. Upon their minds the conviction that an unequal share of the public burdens are laid on them, is deep-rooted; it is an opinion fixed as fate, it has been well and long examined; every fact and circumstance belonging to it has been viewed and reviewed, patiently and diligently, and has been presented, here and elsewhere, in a light so clear, that, as it appears to me, nothing but the potent effect of real or supposed interest could prevent the majority (to whom I now address myself) from seeing it as it is. And though I may be truly told that interest has as binding an effect on one side as the other, the very fact that we are arranged on different sides, according to our general occupations, proves the unequal operation of our present revenue laws. The majority, I know, call the protecting duties the American system, and say it is good; and for them, it may seem so. I shall not enter the lists against their formed, their nourished opinions, based as they are on apparent interest; it would be a hopeless task indeed. But I may, I think, safely ask this committee to believe, that, in the opinion of the whole southern country, (except the sugar planters,) they are unequally taxed; and I said that the movements of this Congress were regarded by them with deep solicitude; they looked, sir, with anxiety for the President's Message; they had no right to expect from him an abandonment of the tariff principle; they knew, when they voted for him, that his opinions were with the majority on that point; they, therefore, did not expect him to recommend a system of taxation, by which they would be required to pay no more than their equal share of the public burdens; but they did expect him to recommend a modification of the present law on that subject; they were not disappointed: they had a right

to demand of him, and of you, that in this modification their interests should be regarded. Yes, sir, and that their opinions, too, should have their due weight; here, sir, the message is also as it should be: for the sake of harmony in our national councils, an abandonment of the scheme of internal improvement is distinctly recommended. But the indications of the temper of the House on those two points are calculated to increase the anxiety of the South to produce alarm in their minds. A bill to modify the tariff in the spirit of the message, was reported by the Committee of Ways and Means. It was kicked out with indignity by this House, and by most of the same votes; a most alarming liberality in appropriations is observable. Shall the entire payment of the public debt give us no relief? I beg the committee to pause, and think of this matter; we have no hope for justice, we look not for equality of taxation. This inequality we have borne, and (to be applied to the necessary expenses of Government) we will bear it so long as it is tolerable: nor will I attempt to mark the limits to which Virginia will go. Whatsoever can be done by heroic fortitude, all that can be dictated by love of this Union, by her clear perception of her deep interest in it, will be done. But I pray you, do not declare to her that the present inequality of taxation shall not only remain, as it respects the proportions, but shall be kept up, as it regards also its amount. It is not sufficient to answer that this inequality is imaginary. The legislators of this land cannot wisely, they cannot safely, disregard the deliberate, settled opinions of the growers of two-thirds of its exports. This interest is too powerful in wealth, numbers, and talents, to be thus treated. I ask not, I do not insinuate, that the decision of this question is to be left to them. No, sir; this whole subject is to be weighed and decided by the majority, who feel not the interest and partake not of the opinions of the population alluded to. I ask that majority, in framing their own opinions, to spread out this whole country before their mind's eye. You know that sore restlessness exists, if you will not, and think you cannot appease it. It is unwise, it is unsafe, to increase it. The arguments which the committee have heard from others, prove clearly that this road could get but few votes in its favor, upon a simple comparison of public and general utility with its cost. The abstract principle of internal improvement with its connection with the American system (as it is called) is to carry the bill, if carried at all. Should this bill pass, I should regard it as conclusive, that the purpose of this Government, to keep the present grinding oppression of the South up to its present amount, is fixed. I have an awful feeling on this point. I know well the opinions of my own constituents, and we all know that one common feeling, on this subject, pervades the whole southern country. They cannot, for one moment, be duped into the belief that the inequality they are subjected to, is, under any circumstances, to be made to them by the disbursements of the Government. The best, the most they could hope for, under the operation of this internal improvement system, is an effect sometimes seen in the conduct of a speculator, who, finding that the stock on hand has fallen in price, goes on purchasing on a falling market, whereby he lowers the average, but increases his loss. So long, therefore, as the southern country pays two dollars tax for every one dollar of that tax that is paid into the Treasury, will it be plain to them that, even on an equal application of the revenue to all parts of the Union, they will be losers one hundred per cent.; but they know they are to lose more. They have no warrant for the belief, that those who now see not that they are unequally taxed, will ever be less unequal in the application of the proceeds. Should any thing be done in their country, under the name of internal improvement, they well do know that, for every dollar thus received, they will pay five; and from the manner such works must and will be executed, their own contributions to the particular work itself will exceed its value. But, sir, if this bill passes, they see not in it a disposition to give them one dollar in five of their own money. They cannot regard the money as appropriated to open the road. No, sir; they will believe that the road is to be opened to appropriate the money. I shall say nothing of the want of lawful power which should now hold our hand. Reasons, good, for declining to argue that question here, were stated in the opening of the debate. But the deep, the settled opinion of the South, that they are oppressed, becomes a matter of more serious consequences, when you take into view their equally settled opinion, that the oppression arises from the exertion of unauthorized power in the manner the taxes are laid. This mode of continuing these taxes, or increasing them, is also by them regarded as unconstitutional. The state of feeling and of opinion thus entertained by the South, I wish taken up and considered as a substantive argument in itself, unconnected with the idea of its being well or ill founded. You cannot say it is capricious; you cannot say it is entitled to no respect; the opinion has been long fixed, it is identified with the soil; it is now, and always has been, the deliberate conviction of many of the clearest heads and soundest hearts of this or any other country. It pervades a large, a powerful section of country, marked out by natural boundaries. The lawgiver who acts in contempt or disregard of opinions, thus situated, acts unwisely; he treads on danger's giddy brink. Mr. Jefferson is often cited as authority here on all sides; the fixed opinion of New England caused him to give up the embargo. The opinion of Massachusetts was not more firmly or warmly set against the embargo, than is that of the whole South against the tariff, and this mode of continuing or increasing it. Our federative system is sup-

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This inequality we have borne, and (to be applied to the necessary expenses of Government) we will bear it so long as it is tolerable: nor will I attempt to mark the limits to which Virginia will go. Whatsoever can be done by heroic fortitude, all that can be dictated by love of this Union, by her clear perception of her deep interest in it, will be done. But I pray you, do not declare to her that the present inequality of taxation shall not only remain, as it respects the proportions, but shall be kept up, as it regards also its amount. It is not sufficient to answer that this inequality is imaginary. The legislators of this land cannot wisely, they cannot safely, disregard the deliberate, settled opinions of the growers of two-thirds of its exports. This interest is too powerful in wealth, numbers, and talents, to be thus treated. I ask not, I do not insinuate, that the decision of this question is to be left to them. No, sir; this whole subject is to be weighed and decided by the majority, who feel not the interest and partake not of the opinions of the population alluded to. I ask that majority, in framing their own opinions, to spread out this whole country before their mind's eye. You know that sore restlessness exists, if you will not, and think you cannot appease it. It is unwise, it is unsafe, to increase it. The arguments which the committee have heard from others, prove clearly that this road could get but few votes in its favor, upon a simple comparison of public and general utility with its cost. The abstract principle of internal improvement with its connection with the American system (as it is called) is to carry the bill, if carried at all. Should this bill pass, I should regard it as conclusive, that the purpose of this Government, to keep the present grinding oppression of the South up to its present amount, is fixed. I have an awful feeling on this point. I know well the opinions of my own constituents, and we all know that one common feeling, on this subject, pervades the whole southern country. They cannot, for one moment, be duped into the belief that the inequality they are subjected to, is, under any circumstances, to be made to them by the disbursements of the Government. The best, the most they could hope for, under the operation of this internal improvement system, is an effect sometimes seen in the conduct of a speculator, who, finding that the stock on hand has fallen in price, goes on purchasing on a falling market, whereby he lowers the average, but increases his loss. So long, therefore, as the southern country pays two dollars tax for every one dollar of that tax that is paid into the Treasury, will it be plain to them that, even on an equal application of the revenue to all parts of the Union, they will be losers one hundred per cent.; but they know they are to lose more. They have no warrant for the belief, that those who now see not that they are unequally taxed, will ever be less unequal in the application of the proceeds. Should any thing be done in their country, under the name of internal improvement, they well do know that, for every dollar thus received, they will pay five; and from the manner such works must and will be executed, their own contributions to the particular work itself will exceed its value. But, sir, if this bill passes, they see not in it a disposition to give them one dollar in five of their own money. They cannot regard the money as appropriated to open the road. No, sir; they will believe that the road is to be opened to appropriate the money. I shall say nothing of the want of lawful power which should now hold our hand. Reasons, good, for declining to argue that question here, were stated in the opening of the debate. But the deep, the settled opinion of the South, that they are oppressed, becomes a matter of more serious consequences, when you take into view their equally settled opinion, that the oppression arises from the exertion of unauthorized power in the manner the taxes are laid. This mode of continuing these taxes, or increasing them, is also by them regarded as unconstitutional. The state of feeling and of opinion thus entertained by the South, I wish taken up and considered as a substantive argument in itself, unconnected with the idea of its being well or ill founded. You cannot say it is capricious; you cannot say it is entitled to no respect; the opinion has been long fixed, it is identified with the soil; it is now, and always has been, the deliberate conviction of many of the clearest heads and soundest hearts of this or any other country. It pervades a large, a powerful section of country, marked out by natural boundaries. The lawgiver who acts in contempt or disregard of opinions, thus situated, acts unwisely; he treads on danger's giddy brink. Mr. Jefferson is often cited as authority here on all sides; the fixed opinion of New England caused him to give up the embargo. The opinion of Massachusetts was not more firmly or warmly set against the embargo, than is that of the whole South against the tariff, and this mode of continuing or increasing it. Our federative system is sup-

posed to be wisely contrived to secure as much of energy as is consistent with the preservation of liberty; but, sir, the lawgiver who acts on these States as one compact whole, and regards not the opinions, nay, the prejudices of large compact minorities, knows nothing of the spirit in which the constitution was formed, or the practical administration by which our Union, under it, can be preserved.

Mr. W. B. SHEPARD said he did not rise at that late hour, with any desire of entering fully into the discussion of the subject before the committee. I have (said Mr. S.) no such uncharitable intention; I merely wish to explain the reasons why I should give the vote I intend to do on this occasion. And this, sir, would be unnecessary; but, representing the section of country, and holding the opinions which I do, my motives might otherwise be misunderstood. Perhaps in the course of my observations I may be induced to take a short excursion along this road, with the view of picking up a few stragglers by the way side. This subject has been discussed upon two grounds—its constitutionality and its utility. I had hoped, sir, after the abandonment of the constitutional ground of objection by the honorable gentleman from Virginia, we should have taken the question as settled, that the General Government have the right to prosecute works of improvement within the bounds of the several States.

[Here Mr. BARBOUR interrupted Mr. S., and denied he had abandoned that ground.]

I have no intention of roaming over the numerous reasons why the General Government has this power; but would merely observe, that it is very surprising to see gentlemen denying this power, who admit other constructions of a more evil or dangerous tendency. It is the practice of those who advocate this restrictive construction of the constitution, to appeal to Mr. Jefferson as to a pure fountain of truth, undefiled; they catch at the slightest word which has fallen from him, and regard it as an incontrovertible political axiom. And yet, sir, the most remarkable instance of constructive power ever assumed by this Government was under his administration, and by his recommendation. I mean the purchase of Louisiana. I would ask those who rely on this authority for the correct construction of the constitution, to show me the clause which gave the power of purchasing Louisiana to the General Government; and, if they cannot find it expressed *totidem verbis*, will they stand up on this floor and condemn that purchase? Will they condemn an act which brought a new world into existence, and opened the fertile and prosperous West to the industry and enterprise of our fellow-citizens? I mention this fact, with no intention of derogating from the well-earned fame of Mr. Jefferson, but as an instance of his practical construction of the constitution. If his opinion changed, I know of no reason why we should wander, even with the divine Plato. It is unnecessary to go very remotely back for precedents of constructive powers—we can find them sufficiently numerous by daily observation in this House. It has not been many days since we construed two "little words" into a statute of Virginia, in order to eject one member from his seat, and put another one in it. And for this we had the efficient aid of the honorable gentleman from Virginia, who spoke so feelingly against this bill. I followed his example; for I thought his construction the right one, although the reasons for it would not be entirely satisfactory to a plain man, who understands words by their apparent meanings. The truth is, the Constitution of the United States was intended to save the country from misery and anarchy. It is a grant of enumerated powers; powers which could not be very rigidly or strictly defined. The wants of a great and growing nation could not be anticipated or imagined; and so long as the exercise of those powers tends to the general welfare and prosperity, they answer the great end for which they were designed. It is immaterial what set of politicians are called to the administration of this Government—they will find themselves compelled to adopt the construction now contended for. Upon any other, the Government may reel on its feeble existence for a few years, and finally be dissolved by its own weakness. We have heard allusions made in the course of this debate, to those persons who desire a great and splendid Government. If by a splendid Government, gentlemen mean a Government which carries its blessings into the remotest corners of its dominions, which peoples its forests with a living and industrious multitude, which is hailed with gratitude and joy in the remotest log house beyond the mountains, I am, sir, for a splendid Government. I would rejoice to see the day when the name of an American citizen, like that of the ancient Roman, would be a protection on every sea, and a terror to tyrants on every land. But if nothing more is meant than a continual playing with the passions and prejudices of the people, for the offices of the Government, the less we have of such splendor the better. To be happy and free, we must be great. By greatness I do not mean the voluptuous splendor of an eastern monarch, a mere sensual enjoyment, the indolence of one, maintained by the sacrifice of millions; I mean that greatness which demands and obtains the respect of the world; which ensures to the poorest citizen of the community personal security, the means of obtaining plenty, and a fair field for the exercise of all the energies of his nature. The most melancholy forebodings have been indulged in, should we continue to progress with this system of opening roads, making canals, and deepening harbors. The fate of Rome has been brought before us, and painted in vivid colors; her passion for splendor has been assigned as the legitimate cause of her degradation and misery. Rome was a nation of warriors; her splendid ways were constructed to

transport her conquering legions to enslave nations; she lived by the plunder of the world: despising commerce and the pursuits of civil life, she had no occupation but that of war. The comparison, therefore, is not sustained; our roads are intended to draw closer the bond of union; to drive, by a nearer and more familiar intercourse, barbarism and hostile feelings from among us; to unite us, by the closest of all ties, the tie of interest. But, sir, should this devout end not be obtained, should the sun of our horizon run his ecliptic course through as brilliant a galaxy as that of ancient Rome, and finally set in as mild a splendor as that of modern Italy, the land of science and of glory, this would be better, far better, than twenty-four petty, jarring, independent tribes, the natural and inevitable result of the opposite doctrine. In the one case, we may leave something for the study and admiration of mankind; in the other, a great deal for his scorn and contempt. Equally unfortunate, in my estimation, was the allusion made to the present condition of England. Her immense debt, which weighs so heavily upon the industry of her people, was not incurred by making roads or cutting canals, but in unnecessary wars; so far from it, that the very existence of that country is now to be attributed to its high state of improvement, to the facility of intercourse through every section, by means of which the industry of every part of the population is wafted to every quarter of the world. By means of the twenty-five or thirty canals uniting the eastern with the western section of England, the spirit and intelligence of the capital is conveyed in a fruitful stream throughout the kingdom. We have seen England, with a population of ten or fifteen millions, maintaining a firm and invincible front against hostile Europe. We have seen her warring in every hemisphere, the last refuge and only hope of free principles in the old world!

To what are we to attribute this indomitable spirit? And whence did she draw the treasure to sustain this protracted struggle? Her people, on beholding the land of their birth rendered a garden, and endeared by their industry, would have died sooner than have permitted the spoiler to have entered their territory. In the course of this debate, we have heard the remark of a celebrated British orator, "that the power of the crown had increased, was increasing, and ought to be diminished," applied to this Government. This may be true, sir, but there is no evidence of it. To ascertain if there is a probable foundation for the remark, let us look at the occurrences of the last few years. We have seen an administration hurled from its seat by a spontaneous burst of the popular voice; not because the constitution had been violated, not because the liberty of any one had been assailed, but from a bare suspicion that unfairness had been used in preventing the will of the majority. And although, now, no honorable man believes there was any corruption in the choice, though the charge has been consigned to the "kennel of forgotten calumnies," the bare existence of this circumstance is proof of the uncontrolled and uncontrollable power of the people in the administration of this Government. Does not this House daily exhibit that they are tremblingly alive to the opinion of their constituents? That the slightest murmur of disapprobation at home sounds like thunder in their ears? How, then, can we imagine the power of the Government is increasing? Are we prepared to adopt the nullifying notions that seem to have struck so forcibly the imaginations of some of our politicians? I hope not; I do not despair of the republic, but have great confidence in the permanence of our institutions. And, although I differ widely from many of the opponents of this bill, I cannot vote for it. I do not think the expediency or necessity of a road from Buffalo to New Orleans has been shown to the House. I have no doubt that the General Government has the power to execute the work; but I cannot consent to expend so large a sum of money as this road will require, for an object the utility of which is so doubtful. I will not repeat the arguments which have just fallen from the honorable gentleman from New York; to my mind they are perfectly satisfactory of the inexpediency of this measure.

Mr. RAMSEY, of Pennsylvania, spoke in explanation of his former remarks, referred to by some gentlemen.

Mr. CARSON replied to some of the remarks of his colleague, Mr. SHEPARD.

Mr. WICKLIFFE moved that the committee rise, and report the bill, with a view of refusing leave to sit again, and discussing the amendment in the House; but

The Chair pronounced the motion out of order.

Mr. STORRS replied to some remarks of Mr. RAMSEY, in reference to his course on this bill; and,

After some further explanation between Mr. SHEPARD and Mr. CARSON,

The committee rose, on motion of Mr. ARCHER.

FRIDAY, April 2.

The House resumed the consideration of the resolution, proposing to set apart every other Thursday for such legislation as may be necessary for the District of Columbia.

After a good deal of debate on the part of Messrs. SPEIGHT and P. P. BARBOUR, against the resolution, and Messrs. MALLARY, DAVIS, and INGERSOLL, in its favor, and an ineffectual attempt of Mr. BARBOUR to lay it on the table, the resolution was adopted—yeas 86, nays 75—so modified as to commence next Thursday.

SATURDAY, April 3.

Pensions.

The House took up the following resolution,

reported by Mr. BATES, from the Committee on Military Pensions:

"*Resolved*, That the Committee on Military Pensions be instructed, agreeably to the President's recommendation in his message of the sixth of December last, to revise the pension law, for the purpose of extending its benefits to every soldier who aided in establishing our liberties, and who is unable to maintain himself in comfort, and to report to the House a bill for that purpose. And, also, that said committee be further instructed, agreeably to said recommendation, to report a bill for the relief of all those who were, during the last war, disabled from supporting themselves by manual labor."

Mr. BATES said, the applications for pensions are numerous, which do not come within the range of the provisions of the pensions laws, and for which provision ought to be made, if made at all, by a general law, and not by special acts. In order to take the judgment of the House upon the propriety of passing such general law, the committee thought it best to present the question in the form of a resolution, that it might be stripped of the embarrassments and refuges which the details of a bill create; and he supposed it would be expected of him in a few words to call the attention of the House to its import and general bearing.

The resolution (he said) embodies precisely the recommendation of the President in his message at the opening of the present session of Congress, no more, no less. It involves two propositions, the one relating to the soldiers of the revolution, the other to the invalids of the last war. The first proposition is to extend the benefits of the existing law to "every soldier of the revolution who aided in achieving our liberties, and who is unable to maintain himself in comfort." To extend the existing pension law —the act of 1828, so far as it relates to the officers, was founded on compact; and, so far as respects the soldiers, it gives pensions only to those who served to the close of the war, &c., without any reference to their ability or inability to support themselves; and has, therefore, no application to the subject in hand. The law of 1818 gives a pension to those of the continental establishment, who, at one period of the war, or, in the language of the act, "at any period of the war, served for the term of nine months or longer," and who were in such circumstances as to need, &c. Under the construction which has been given to this act, those whose enlistment was for a shorter term than nine months, whatever might have been their term of service, are excluded, and those, also, who enlisted for nine months, and by captivity were prevented from serving in the army. For these two classes provision has been made by the bill that has gone to the Senate; and which, by great grace and favor, has reached the honor of a second reading, upon a call of yeas and nays, by a vote of nineteen to seventeen. Mr. B. said he congratulated the House upon this occasion It might grow to be of some importance in this Government, for the bill of the last Congress did not arrive even to that honor. Do what you will to these old soldiers, but hear them. And if they are not to be heard, let this House be heard in their behalf, at least with the usual forms of respect and attention. The resolution, therefore, only covers, beyond, the cases of those who, under different enlistments, served nine months, or, under one or more enlistments, a shorter term than nine months.

There was another class of troops, now known as State troops, eleven regiments, or rather battalions, for they consisted of but five hundred men each, who are also provided for by the bill now in the Senate, leaving those only to be embraced by the resolution, who served for a shorter time than nine months, or nine months at different times.

The third class consists of the militia and volunteers, who, at all times, were useful, and, on many occasions, saw very hard service.

The proposition, then, is to give relief to all the soldiers of the revolution, whether continental, State, militia, or volunteer, who are unable to maintain themselves in comfort, as a national memorial, and testimonial of our gratitude and justice, of their merit and worth, and of the glorious results of their services—a full pension to those who served nine months, and a *pro rata* pension to those who served less. This, however, to be fixed in the details of the bill as may be thought proper.

The second proposition is to give a pension to those "who were during the last war disabled from supporting themselves by manual labor?" Those who were disabled by known wounds are now provided for, leaving only those for the resolution to act upon who were disabled by other means, such as hardships, exposures, &c., &c.

Thus far for the import of the resolution. As to its bearing upon the Treasury, if it should be consummated into a law, the committee, aware that they would be called upon to state the number of soldiers it would embrace, addressed through the House a resolution to the head of the department who has the administration of this subject, and all the means of information in relation to it, accessible or known to the committee, which he asked the Clerk to read, with the Secretary's answer to it:

Mr. BATES, from the Committee on Military Pensions, reported the following resolution, which was adopted:

Resolved, That the Secretary of War be directed to report to this House the probable number of surviving revolutionary officers and soldiers (not provided for by the existing pension law) who aided in establishing the liberties of the United States, and who are unable to maintain themselves in comfort; designating, as nearly as may be, such as belonged to the continental establishment, and such as were regular troops of the line of the army, but not of the continental establishment, and known as State troops; as, also, such as belonged to the militia of the States, severally, whether as volunteers or otherwise, and what additional appropriations will be

necessary to meet the views of the President in this respect, as disclosed in his message at the opening of the present session of Congress; and, further, to report the probable number of those who were, during the late war, disabled from supporting themselves by manual labor, and who are not provided for by existing law.

WAR DEPARTMENT, 19*th January*, 1830.

The resolution of the House of Representatives, of the 14th January instant, relative to the number of surviving revolutionary officers, &c., cannot be fully and satisfactorily answered by any information on file in this department. The enclosed communication from the principal clerk of the Pension Bureau is a reply, to the extent that the records of the War Department will permit.

Very respectfully,
J. H. EATON.

ANDREW STEVENSON, Esq.
Speaker of the House of Representatives.

WAR DEPARTMENT,
Pension Office, January 15, 1830.

SIR: In relation to the resolution of the House of Representatives, of the 14th instant, respecting the surviving officers and soldiers of the revolutionary war, I have to inform you that the archives of this department furnish no data upon which an estimate could be made, as to the probable number of those who belonged to the State regiments, volunteers, and militia, during the revolutionary war. Of such troops we have no rolls, except the three State Regiments of Virginia. Of the number of Virginia State troops, now living, I can form nothing like an accurate calculation: possibly a hundred may still survive, and perhaps three-fourths of them might ask for assistance, if a law should pass embracing their cases. If all who served on the continental establishment are comprehended in the resolution, it would embrace men who served for six and eight months. What portion of these are now alive, and in needy circumstances, I am unable to determine, but four hundred would, I think, be a large estimate.

I have no means of ascertaining what number of persons were disabled during the last war, who are incapable of maintaining themselves by manual labor, and who are not provided for by law.

I have the honor to be, very respectfully, your obedient servant, J. L. EDWARDS.

Hon. JOHN H. EATON, *Secretary of War.*

Mr. B. said he called for the reading of these papers rather for the purpose of showing what is not attainable than what is obtained. Inasmuch as this measure was recommended by the President the committee thought it due to him to call upon the appropriate department of his cabinet for such facts and information as might be useful in justifying and sustaining it. But, from the condition of the records of the army, and the nature of the case, it is impossible to form a satisfactory opinion upon the subject. He would not, therefore, venture to give one. The fact can only be ascertained now, as it was in 1818 and 1828, by experiment. Of one fact, however, and the only one material, we are assured, and that is the ability of the Treasury to meet the demand which the resolution may create upon it. The House ought not to forget that time has thinned the ranks of these men, and abridged the life of all of them by twelve years since the act of 1818. The amount of the immediate demand will be much less than is expected, he thought, and it will be a gradually and rapidly decreasing demand. These men will soon cease to trouble you. The last of them will soon be gone. The measure must, therefore, rest, for its basis, upon the recommendation of the President, who doubtless considered it well before he recommended it to Congress, and upon the great and obvious and universally admitted justice and propriety of the measure.

He congratulated the soldiers of the revolution that the President had pledged the authority of his name, and staked to the nation his influence with Congress in their behalf. It was an act worthy of a President of the United States. It ought never to be heard in a country like ours, that these men are left to suffer from want, or even to feel that they have been rigorously and harshly dealt by, and he hoped to hear no more of paying the national debt until this, the most ancient, just, and sacred, is first met and cancelled. Sir, (said he,) there never was a race of men so trifled with as these men have been, whose feelings and honor were held in such cheap account. In 1818, you gave them a pension. In 1820, as soon as they adjusted themselves to their new condition of comfort, you took it away. By the same act, and that of 1823, you readmitted a portion of them to the pension roll, but upon this condition—a sworn confession of absolute pauperism, nay, you required proof of it upon inspection, and valuation. You searched their tents as if they had been felons, not to ascertain where they get their plunder, but what they had, and what they had done with what they had not. You made him account for the twin lambs he had given his children for the rearing, and for the cradle his wife had given to his daughter upon her marriage. You charged him with the money he had paid for services filial piety had rendered, unless he could show an antecedent contract which no parent ordinarily would have thought of proposing, and no son, unless a bastard or an outcast, of making. In 1828–'29, no sooner had a new rule been adopted, more just, more liberal, and in my view more conformable to the act of 1818 than the old one was, and the hopes of these men, which had become dead, been revived, and their crutches put in motion,—for they had no time to lose—no sooner had they set out upon their pilgrimage to the court-houses, to get their papers, than the rule was reversed—the Government had changed its mind—"as you were," was the order from the War Department. Of course, all their expense and trouble were incurred for nothing. I repeat, sir, there never were men so trifled with. Age, infirmity, poverty, and suffering had been sported with, not by the boys of Bethel, but by Congress. Here, sir—less here than elsewhere. Fair speeches will

answer no longer They have answered long enough. Let the question be settled, once and forever. Let the claims of these men be admitted and satisfied, or rejected; for, in reference to this subject, hope given up is preferable to hope deferred. Let them have at least the quiet of despair. I say again, that I congratulate them that the President has interposed in their behalf. It is proof that he knows what is due to them, and what is due to ourselves, to our own character and honor; and I call upon the House to sanction the measure he has recommended.

[Here the hour elapsed for the consideration of resolutions.]

MONDAY, April 5.

Judge Peck.

The Speaker presented a memorial of James H. Peck, Judge of the United States district court for the district of Missouri, in relation to the report of the Committee on the Judiciary, made to the House on the 23d ultimo, on the memorial of Luke E. Lawless, in which report it is proposed that he (the said judge) be impeached for high misdemeanors in office, praying the House to receive from him a written exposition of the whole case, embracing both the facts and the law, and that he may have process to call his witnesses from the State of Missouri, in support of his statement, before any discussion or vote be taken on the evidence as it is now presented with the report of the committee—or, if that cannot be granted, he prays the House "to vote the impeachment at once, without any discussion on that partial evidence which presents a garbled view of the subject, greatly to the prejudice of the memorialist, and that he may have as speedy an opportunity as the nature of the case will allow, to exhibit before the tribunal of the Senate, and before his country, the entire transaction in all its parts, as it really occurred."

The report having been read by the Clerk,

Mr. STORRS, of New York, moved to commit it to the Committee of the whole House on the state of the Union, to which is committed the report of the Judiciary Committee relative to Judge Peck.

On this motion a debate ensued, which continued till between two and three o'clock, embracing in its range the propriety of granting the prayer of the petitioner, the propriety of the course pursued by the committee in their investigation of the subject, the history of other cases of impeachment in our country and in Great Britain, and, somewhat, the merits of the present case. Messrs. STORRS, of New York, CLAY, BUCHANAN, INGERSOLL, SUTHERLAND, WICKLIFFE, PETTIS, BELL, SPENCER of New York, EVERETT, STRONG, COULTER, and CRAIG, of Virginia, took part in the debate, which was at length terminated, by a successful motion of Mr. DAVIS, of South Carolina, to lay the memorial on the table, and print it.

Mr. CLAY said, that when he withdrew his motion to lay this memorial on the table, and print it, he had had no idea that such a discussion would have take place as had since arisen. Nor could he perceive the propriety of the debate under such a motion as had been made by the gentleman from New York, (Mr. STORRS,) to refer it to the Committee of the Whole on the state of the Union. He had greatly misunderstood the memorial of Judge Peck, if it reflected in the slightest degree on the Judiciary Committee; and he was persuaded that those gentlemen who had represented that paper as so doing, had entirely misunderstood its tenor and purpose. All that the Judge had done in his petition was, to present a simple statement of facts, and to ask that he might be heard before he was impeached. He had uttered no reflection whatever, either on the Judiciary Committee or its chairman; and why it had roused so much feeling in the House, he was utterly at a loss to understand. He might be mistaken, but to him it seemed that the whole discussion was out of order. The question at this time was not whether the Judge should be heard at the bar of the House, or whether additional testimony should be received. Neither of these questions was at all involved in a motion to refer the memorial to the Committee of the Whole on the state of the Union; yet the whole discussion seemed to have gone on the supposition that such was the question, and gentlemen had argued it on the ground of precedent. As to precedents, there was no uniformity in them on this subject. One high case had been referred to, that of Warren Hastings, and also that of Judge Chase. But the practice in the several States differed from that which had been pursued by the General Government. In his own State, (and he hoped he should not be considered as presumptuous in referring to the practice of a State which had so recently been admitted to the Union,) the course pursued in cases of impeachment was different: and he thought there were many inducements for the House to pursue the practice there adopted. He could not unite in the opinion that the House should proceed precisely as did a grand jury in ordinary cases of indictment. The present case was totally different. A great officer had been accused of a great offence. Did gentlemen suppose, could they think, that, when a high officer of the Government was accused by a private individual, he must, on the mere *ex parte* testimony of that accuser, be at once impeached? Mr. C. said he should hesitate much before he could subscribe to such an opinion. He thought the House ought to proceed with very great caution. Merely to accuse, was not all that was necessary in order to have a judge impeached. Some gentlemen seemed to conceive that the memorial of this petitioner asked that witnesses might be examined at the bar of that House; but it made no such request directly. It only asked this as one alternative—that his witnesses might be

heard here, if not elsewhere. Mr. C. inquired why it would not be proper to appoint commissioners to take testimony in Missouri or elsewhere? Where would be the inconvenience of such a course? Where would be the impropriety of issuing commissions to individuals of respectability, to take testimony on the spot where the offence had occurred? This could be done, although that House was not the tribunal before which the accused was to be tried. It had very truly been stated, that the ground of this impeachment had occurred some four or five years before. The case had at that time been referred to the Judiciary Committee of the House, who, after looking at it, requested to be discharged from its further consideration. The same extraordinary prosecution had been attempted the second time, but with no better success. And was it not natural for the accused, when a grand jury had thus twice made a return of *ignoramus*, to suppose that he was exempt from any further molestation on the same ground? Surely it was; and Judge Peck had concluded, when, in a second instance, a competent committee of that House had had his case before them, and made no report upon it, that he was exempt from further trouble. While these facts were not denied, and gentlemen looked at the length of time which had since elapsed, they must allow that it behooved them, as candid and honorable men, to act in the case with caution and deliberation. Were gentlemen prepared to decide on the proposition of the Judge, without fully consulting the precedents? It had been to allow time for such an examination, that he had made the motion to lay the memorial on the table, and print it; and he must be permitted to say, that a discussion like the present would, in his judgment, have been more proper after such a delay, than it was at present.

He now renewed the motion, but once more withdrew it at the request of Mr. STORRS.

Mr. BUCHANAN said, that, whilst he was influenced by no personal feeling in this case, he thought it was his duty to make one or two explanations in relation to some matters contained in the memorial which had just been read.

Judge Peck, in that memorial, suggests that the Committee on the Judiciary sent for such witnesses only as had been selected by Mr. Lawless. That is far from being the fact. The committee acted upon higher principles. They were sensible of the high responsibility which they owed, both to this House and to the country, for the correctness of their proceedings; and had, therefore, inquired and ascertained, from the best sources in their power, the names of such witnesses as would be most likely to give an impartial and intelligent statement of the transaction. They had sent for and examined seven witnesses; and he owed it to them to say, that, although he had long been in the habit of examining witnesses in courts of justice, he had never observed, on any occasion, more candor or more impartiality than these seven gentlemen had exhibited upon their examination before the committee.

It is true, as the memorial suggests, that, in the case of Warren Hastings, the House of Commons did hear the accused, and did permit him to produce testimony, before they voted an impeachment against him. But this was only a single instance. That course might have been adopted because Mr. Burke, merely as an individual member of the House, had risen in his place, and moved the impeachment. Whether he was correct in this conjecture or not, it was certain there had been no case of an impeachment by this House, in which so much indulgence was granted, as had been allowed to the accused upon the present occasion. He was permitted to furnish the committee with a written explanation of his conduct, and his request that he might cross-examine the witnesses was promptly granted. The House will decide, when they come to review the testimony, whether he was improperly restricted in this cross-examination, or whether it has not been full and ample. He would say, that, in his opinion, this cross-examination had rather injured than benefited the Judge.

Mr. B. said, that, for his own part, he had never considered the parol testimony in this case of much importance. The opinion of the court, the commentary of Mr. Lawless upon it, which was the alleged contempt, and the record of the court imprisoning and suspending him from practice, were all in writing, and were the facts on which the committee mainly relied in forming their opinion. In that opinion they were unanimous. They felt deep regret, when they found themselves obliged to come to the conclusion which they had done; and it was with great reluctance they had recommended an impeachment to the House. In making their report, they had purposely expressed a mere naked opinion only, unaccompanied by any argument in its support. They did not wish to bias the decision of the House by any commentary of theirs upon the testimony. All they desired was, that each member should read the testimony for himself, and draw his own conclusions from it.

Mr. INGERSOLL said, there might perhaps be some difficulty in arriving at the correct practice to be pursued in this case; and as possibly the practice hitherto had not been uniform, it was the more important that the House should start right. He confessed that this was, in a great measure, a new case to him. The only one that he had ever before witnessed was that, in which charges, through a newspaper of this district, had been brought against the Vice President about three years ago. That officer had presented these charges to the House, as the grand inquest of the nation, and requested an inquiry. A committee had been appointed to investigate them; and, before that committee, a friend of the Vice Preident had been permitted to appear, and represent him throughout

the whole investigation. Witnesses, also, had been examined on the part of the accused. How it had been in the case of Judge Chase, or of Judge Pickering, from New Hampshire, he did not recollect; but he well recollected that witnesses in favor of the Vice President had been examined, as well as against him, and that his representative had been allowed to be present before the committee through every stage of that examination. The committee at that time took some pains to ascertain what was the proper mode of proceeding, and they became satisfied that the party accused had, in these preliminary proceedings, a right to be thus heard. The constitution providing for the impeachment of all civil officers, makes no difference between judicial and other officers. Nor can it make any difference whether the matter is brought before us by the individual who feels himself injured by an unjust charge, or whether it comes on the petition of a citizen, or by the message of the Executive, or by a member rising in his seat, as was done in the case of Warren Hastings. The rules which must govern the inquiry must be uniform, be the officer who he may, and in no matter what form the subject is first brought to our notice. Mr. I. said he would not, in this early stage of the business, commit himself to any cause, till he could look further into parliamentary proceedings in similar cases; he rose principally to correct what had been said by the gentleman from New York, who, he thought, went too far in saying that there had been no instance in which the party accused was permitted to examine his witnesses in the preliminary proceedings in this House.

Mr. PETTIS said: Standing indifferently, as he protested he did, between the accuser and the accused in this case, he hoped he might be permitted to make some remarks on this subject.

The House of Representatives had now to perform a very important duty—important, as had been observed, not only to the judge who had been accused, but to the country. The practice in cases of impeachments, so far as regards the proceedings in this House, was now to be settled; for it was obvious that it had not yet been settled by precedent. Gentlemen had, indeed, spoken of the case of Judge Chase; but that case had no application to the present one as it now stands. Judge Chase did not ask to make his defence before this House, nor did he ask either to cross-examine witnesses on the part of the Government, or to have an examination of his own witnesses. As the present question was not then raised, that case can form no precedent to govern in this instance.

Mr. P. regretted the course pursued by the gentlemen of the Judiciary Committee, especially that of its honorable chairman, (Mr. BUCHANAN.) That gentleman had repeatedly told the House that he had no feeling towards the accused. Mr. P. said he hoped his remarks would not show a freedom from feeling in the way that those of that gentleman had done. The honorable chairman had, in a very unnecessary, and, he would say, improper manner, entered into the merits of the case. He had told the House that, in order to save the Judge, his request should be refused him; and he had said that the Judge had made his case worse instead of better by his cross-examination of the witnesses. The gentleman from New York (Mr. STORRS) had taken the same view; both intimating that they were desirous to save the Judge from himself. What was it the Judge asked in his memorial? First, that he might be permitted to defend himself before this House, and then that his witnesses might be examined at our bar; but, if this be not granted, that his case might be sent back to the committee, and that there he might present his defence, and there have his witnesses examined. Mr. P. said he considered the request of the memorial perfectly fair and proper; and if the motion to lay it on the table and print it should prevail, he should then move a series of resolutions, presenting in a distinct manner the several requests of the memorialists that the House might act expressly upon them. As to the first, it was certainly important that the House should know the principles on which the case rested. The Judiciary Committee had, it was true, made a report; but they had not laid down one of those principles in it. Now, he put it to gentlemen, whether they were prepared to act in the case until these principles were examined and known. Were there any gentlemen present who had fully examined the law bearing on this case? He presumed not. We were then called upon to act in the dark, upon faith. He had not himself had time to examine the principles involved, nor had he made up any definite judgment on the case. He thought the Judge ought to be permitted to show whatever bore on his side of the question, and the committee should then exhibit whatever had an opposite bearing. This might be done, should the House refuse to hear his witnesses. He was of the opinion that his witnesses should be examined by the committee.

Mr. P. said, this was not the ordinary trial of a criminal before a court of law, but was a proceeding of a much higher character. Why is it that a defendant's witnesses are not permitted to be examined before a grand jury? It is because criminals shall not know what is doing against them, and then make their escape. But even in criminal cases counter testimony is frequently allowed.

If the House should hear what the Judge had to exhibit in his defence, we should be prepared to act intelligibly. The gentleman from New York (Mr. STORRS) had opposed this, on the ground that it would be worse for the Judge; that if this examination was had, and an impeachment preferred, the Senate would be bound, by the force of public opinion, to convict. That gentleman would surely let the party judge for himself. If he judged wrong, he must abide the consequences. It appeared to him a very strange doctrine, that, after a full

examination here, and an impeachment found, the Senate would be found to convict. In the case of the Vice President, and in the case of Mr. Crawford, witnesses were examined on both sides. Both these gentlemen were charged with high misdemeanors, and the charges had been preferred in times of great political excitement. The request of the Judge is supported by the whole train of English decisions in cases of a like kind; and he hoped that the indulgence would be granted him.

Mr. STRONG said, that, from the little examination he had been able to give to this subject, he had come to the conclusion that the present proceedings should be strictly *ex parte*, rigidly so. It had been said by the gentleman from Massachusetts, (Mr. EVERETT,) that the committee had departed somewhat from this line. It was true that they had deviated from it in a slight degree, but the departure was not such as to warrant the House in taking the other step which was now requested. There was a very material difference between hearing the party accused and hearing his witnesses. The members of the House were not judges to try or to condemn the accused. It was true that the matters in this testimony might not be such as to mix themselves up with party politics; but suppose that it were proposed to impeach a political man of high standing, and that the witnesses were brought to the bar of the House, he put it to every man to say whether the safety of the country did not require that, in such cases, politics should be thoroughly excluded from that tribunal. And how could this be done, but by keeping the proceedings strictly *ex parte?* Complaints had been made that the committee had not reported articles of impeachment; the case had been referred to them for no such purpose; their duty had been simply to ascertain facts. The House did not want even their opinions; it wanted the facts only, and on one side. What the House had to decide, was, whether the testimony did, or did not, contain matter to warrant an impeachment. If it did, then the House would say the party should be impeached, and the next step would be to appoint a committee to frame the articles. These would be reported to the House, and, if they were agreed upon, then managers would be appointed to conduct the trial before the Senate. It struck him that the safest course would be to keep the proceedings as near *ex parte* as possible. Let the report and the memorial go to the Committee of the Whole on the state of the Union; let them be printed, and let all the members have an opportunity to examine them. If the House should then decide that articles of impeachment should be drawn up, all would have been done that the accused could rightfully ask.

WEDNESDAY, April 7.

Judge Peck.

Mr. PETTIS obtained the leave of the House (by a suspension of the rule, 101 to 40) to offer the following resolution:

Resolved, That James H. Peck, Judge of the District Court of the United States for the district of Missouri, be permitted to make to this House any explanations he may think proper, in answer to the charges preferred against him by Luke E. Lawless, Esq., which charges have been reported on by the Committee on the Judiciary.

Mr. P. said he moved this resolution in pursuance of an intimation which he gave the other day when he moved to lay Judge Peck's memorial on the table, to try the sense of the House in granting Judge P.'s request. He thought the indulgence proposed was a matter of justice to the Judge; that there was no precedent against it, as he had examined the authorities as far back as 1640.

A long debate ensued on the resolution, and on the modifications which were proposed to it, in which Messrs. STORRS, of New York, BUCHANAN, DODDRIDGE, DRAYTON, RAMSEY, CLAY, MARTIN, PETTIS, SPENCER, of New York, ELLSWORTH, HUNTINGTON, BATES, and BURGES engaged. In the beginning of the debate,

Mr. MARTIN moved to strike out the word "explanations," and insert "any respectful written argument upon the law and matters of fact now in evidence before the House;" and after some time, to get rid of the debate.

Mr. PETTIS accepted this modification, and inserting further the words "or oral" after the word "written."

Thus amended, after an unsuccessful motion by Mr. DRAYTON to strike out the words "or oral," the resolution was agreed to without a count.

Mr. PETTIS, having offered his resolution, remarked, that he had examined all the precedents on this subject which he could discover, and there was no instance among them, in which a request, like that which he had made in behalf of Judge Peck, was denied. He adverted to the case of Lord Melville, and in truth to all which had occurred since 1640. He confidently hoped the privilege solicited would be freely accorded by Congress.

Mr. DODDRIDGE asked how many days it was supposed the Judge would require to prepare his defence. The time of the House, at this season, was peculiarly precious.

Mr. PETTIS supposed he would be prepared by Monday next.

Mr. STORRS, of New York, inquired whether it was anticipated that the Judge intended to submit to the House any thing more than points of law and matters of fact, appertaining to the judicial proceedings complained of.

Mr. PETTIS replied, he believed these were all that was to be expected from him.

Mr. ELLSWORTH observed, that the objection urged by the gentleman from New York (Mr. STORRS) applied to the amendment as much as to the bill. We have no constitu-

tional power to pass this amendment. We are only to inquire, and, if we see cause, direct an impeachment. Upon the merits we cannot act definitively; besides, we might do Judge Peck great injustice; he has yet had no opportunity to defend. Mr. E. said he was in favor of the report and the resolution as they came from the committee. When the papers in this case had been presented to the Judiciary Committee, he had read them again and again, with the greatest anxiety; and it was with the utmost reluctance that he came to the conclusion at which he finally arrived. He felt that it was a grave thing to put a judicial officer of this Government to his trial for his character, his office, his subsistence, and, in a word, for all that is dear to humanity, and to make the last and most sublime appeal known to the constitution, by placing him before the Senate in the last resort. But there was another view of the subject, which struck his mind with equal force. He saw an officer occupying an elevated station, and clothed with the authority of this Government, calling before him a fellow-citizen, known as a man of talent and respectability in his profession, and by a summary process, stripping him of the exercise of that profession, clothing him with shame, and incarcerating him in a felon's dungeon, the place of disgrace and infamy. He had endeavored to view the case with impartiality, and not to give way to any undue feeling; and, after having attentively heard the statement of facts presented by Mr. Lawless, he had come to the conclusion that if these facts were substantiated by testimony, the impeachment ought to proceed.

It was not now his intention to go into the merits of this case. The subject had been exhausted. But, as he had been a member of the Judiciary Committee, and had given his voice for the impeachment of Judge Peck, he trusted the House would listen to him for a few moments.

It appeared that the Judge, three months after delivering his opinion in the case of Soulard, and three months after the final disposition of the case and the adjournment of his court, committed it to paper, and sent it to the public press. It was an opinion involving the landed titles of almost the whole territory where he resided. He published it, as it seemed, at the request of a lawyer, or lawyers; and manifestly for the purpose of spreading opinions, exciting feelings, and leading to a certain line of conduct in the community where it was published. Perhaps this might be all right; he should find no fault with it: shortly after the publication of this opinion of the Judge, a professional gentleman, nearly concerned in the result of that opinion, had come before the public in another paper, and exposed what he conceived to be certain errors into which the Judge had fallen, which might have been called for, to save his friends or clients from the grasp of speculators, until a final trial in the Supreme Court, and especially as such publicity had been given to the opinion. Mr. E. said he had looked over both these papers; and he there declared, in his place, and was willing to risk his reputation on the opinion, that there was not any thing in this commentary in the least degree reproachful to Judge Peck, either as a man or as a Judge; nothing that looked in the least like a contempt of court, or an impeachment of the integrity or character of the presiding officer, unless pointing out error, if there really be any, is an offence. He had seen similar comments in the newspapers a thousand times before. And the House was now come to the crisis, when it must decide whether it would sanction the arrest and imprisonment of an individual by a judge for commenting on one of his opinions This (said Mr. E.) is the question we are called upon to settle this day. Finding that the rights of an individual had been violated, I put this query solemnly to myself: is there any thing in the conduct of this individual to justify such a proceeding? And I was compelled to answer it in the negative. Judge Peck had neither jurisdiction nor provocation. He had finished the case, adjourned the court, and descended from his judicial station to that of an essayist of a newspaper. The gentleman from Missouri (Mr. PETTIS) says, that a spirit has gone abroad, of reckless and determined hostility to the judiciary; but, let me tell that gentleman, that if conduct like this shall go abroad with the sanction and seal of this House upon it, he may bid adieu to the honor and independence of the judiciary henceforth. Sir, have the days of the star chamber come upon us? Shall it be declared to the American people, that, after a judge has given his opinion, and dismissed the cause, he may arrest a citizen, drag him before his tribunal, and say to him, you have written strictures on my opinion, which I consider derogatory to me, and I, therefore, send you to prison, and take away your livelihood for eighteen months. I tell you, you are a base calumniator, a libeller, and, if you were in China, your house would be painted black, as an emblem of the blackness of your heart, and as a warning to society. Yet it is now proposed that this House shall say, it does not entirely approve of the conduct of the Judge, but impeachment is a solemn affair: the man has been punished enough already, now let him alone. Sir, I do not wish to appeal to the feelings of the House; but while I see a free citizen of this republic made the subject of high-handed oppression like this, I feel it to be the imperious duty of this House to send the man who appears to be guilty of it to his trial before another and constitutional tribunal.

Let me now proceed to answer one or two objections, which have been urged by the opponents of impeachment. And, first, it has been said that we may not impeach unless there is evidence of corruption. There need not be corruption in the common sense in which that

term is used. A wicked motive is enough. Error in judgment is not impeachable, but wicked conduct and a wicked motive are. Sir, did any one vote to impeach Judge Pickering, of New Hampshire, for corruption? No, sir; he was impeached for intemperance, but not for corruption. Suppose the wicked conduct of the Judge himself brings his court into contempt; suppose that conduct is arbitrary and oppressive, ought we to pass it over with slight language? In all the eight articles against Judge Chase, he was charged with an arbitrary exercise of judicial power. There was scarce one article, if I remember right, which charged him with direct corruption. The whole prosecution was founded on the idea that his conduct was arbitrary, and though he was not finally convicted, it was because the facts did not bear out the charge. Though you cannot show that a judge has been bought, you may show his oppressive and wicked conduct, and that he ought to be turned out of office. The constitution says that judges shall hold their office during good behavior. I do not say that every species of wrong behavior is such as to forfeit his office, but I say that there may be other ill behavior besides taking a bribe. I do on my soul believe that Judge Peck has been guilty of conduct, if not corrupt, certainly arbitrary in the extreme. It has been said that Lawless was personally interested in the cases in which he was counsel, and that all the counsel were opposed in opinion to the Judge. Admit it. Is that any reason that the Judge should act oppressively? His opinion and station were perfectly independent; he was not bound to regard the notions of counsel. Sir, the merits of this case lie within a very small compass. The question is, whether the criticisms of Lawless were just or not, and whether, admitting them to be erroneous, the Judge might, on that account, shut him up in jail, and strip him of his profession. There appears to me to have been a sickly sensibility in this judge. He seems to have resolved to come out, and by his judicial thunder to demonstrate that he was yet alive, that he had a court, and that he was not to be contradicted or reviewed. He, therefore, sent out, brought in his victim, cast him in prison, covered him with infamy, and did what in him lay to deprive him of his livelihood. Unless it can be shown that he had authority so to do, and that he acted on justifiable cause, I for one am prepared to impeach him.

Mr. BUCHANAN said, it was not his purpose to enter into any argument in this stage of the proceeding. He felt rather in favor of the resolution which had been moved by the gentleman from Missouri, (Mr. PETTIS.) He, too, had examined the British precedents, and found that in several cases the party had been admitted to the floor of the House of Commons, simply to make an argument on the testimony which had been previously given to the House. This was the utmost extent of the privilege, so far as he had examined the cases, except in a single instance—that of Warren Hastings. The gentleman, as he understood, did not now ask that new witnesses should be sent for and examined: and if the request of the accused was limited to a mere permission to make an exposition of the law, and an argument upon the facts, as they appeared in the testimony already taken, he should not have the smallest objection.

Mr. DRAYTON said, that in moving to strike out the words "or oral," he had had no intention of preventing the individual concerned from availing himself of the full benefit of what the resolution proposed to grant to him, but had been influenced by the consideration, that, if his exposition should be made in writing, all the members of the House would have an opportunity of examining it; but, if made orally, it would be impossible that all the members should distinctly hear it, and, if they did, they would probably not retain the substance of it distinctly in their memories. This was one reason which actuated him. Another was, that, in his opinion, ill consequences would be likely to arise from the personal appearance of the memorialist before the House. He might aver that a material fact could be established by testimony incorrectly or imperfectly referred to in the report of the committee, and ask leave to introduce it fully. Should his application be rejected, he might regard the permission to be heard as illusory. Should his application be acceded to, we should be drawn into a trial of the cause. It had been said that this House was "the grand inquest of the nation," thus assimilating its powers and jusrisdiction to those of the British Parliament. This is a radical error. This House has no other inquisitorial authority than such as is expressly delegated to it by the constitution, and this is restricted to the power of impeaching certain civil officers of the United States for crimes and misdemeanors. The British House of Commons is "the grand inquest of the nation." In the exercise of this prerogative, they may proceed against any persons, for any offences, and in any manner which they may deem expedient. They may prefer accusations, informations, or impeachments, or enact bills of pains and penalties, altering the rules of law or evidence. They have, accordingly, acted under all these modes. They have accused an individual of misdemeanors, and ordered a jury to be impanelled for the trial, as in the case of Alice Pierce; they have impeached a clergyman for a libel, an offence cognizable by the courts of common law, as in the case of Sacheverel; they have passed bills of pains and penalties, as in the case of Sir John Fenwick, who was executed under a statute dispensing with the proof of two witnesses to an act of treason, as required by the statute of Edward III. From this brief statement, it must be apparent that analogies drawn between the inquisitorial powers of the British House of Com-

mons and of the House of Representatives of the United States, are fallacious. The precedents, therefore, which have been cited, of the manner of proceeding when the British House of Commons accuse or impeach, are calculated to mislead, not to enlighten, our judgments. We must be regulated by our own constitution in the construction of the power of impeachment. That power is limited in the constitution, to an inquiry to be instituted by this House, whether sufficient grounds exist to warrant the accusation of a civil officer of the United States before the Senate. Unless in this inquiry the House be confined to what is termed *ex parte* testimony, there will be no bounds set to their inquiry—they must, then, hear all the evidence which can be adduced by him who prefers the charges, and by him against whom they are preferred, and thus the House will, in fact, try a cause over which the constitution has given to them no other power than to decide whether it shall be tried by another tribunal. In what I have said, I desire not to be understood as being opposed to granting permission to the memorialist to be heard, with the limitations expressed in the resolutions. I am willing that he should have an opportunity to comment upon the statements and the facts which are contained in the report; but, as I think that it would be more advantageous to him to submit a written than an oral argument, and as the time of the House would be saved by the former mode of proceeding, I therefore am in favor of the amendment which I have offered.

Mr. PETTIS said that the privilege would, in fact, amount to nothing, unless the Judge, in his communication to the House, should be permitted to state the facts as they had appeared in the testimony, and to show how the law applied to them.

Mr. DRAYTON inquired what course was to be pursued, suppose the Judge should make some statement which was disputed, and should then ask to support it by testimony.

Mr. PETTIS replied, that each gentleman would, of course decide for himself. The Judge's statement could not certainly be received in opposition to the testimony delivered before the committee, nor would the House be in any wise bound by the statements he might make. If those statements conflicted with the evidence, it would be for the House to decide between them.

Mr. RAMSEY observed, that, if Judge Peck, who was the accused party, was to be permitted to make his own statements before the House, he thought it would be no more than fair that Mr. Lawless, who was his accuser, should be allowed the same privilege. The one had as good a right to be heard as the other. Mr. R. accordingly moved so to amend the resolution, but withdrew his amendment at the request of

Mr. CLAY, who said that he could not perceive any difficulty in this case. The proposition was a single and a simple one. Let the Judge submit in writing an exposition both of the facts and the law. This would facilitate all gentlemen in coming to a conclusion. The Judge had not asked leave to state any facts which differed from those in the testimony. His friend had disclaimed, in his name, any such purpose. He thought it was a right which ought not to be denied to an accused person, and he was persuaded that the granting of it would lessen the difficulty of the House in coming to a just conclusion.

Mr. MARTIN said that he had an amendment which he presumed would answer the views of the House generally. He believed there were none who supposed that the Judge was to be permitted to state facts in his own favor, in contradiction to those which had appeared in the testimony before the committee; that thus an issue was to be made up, and that the House was to hear an argument on that issue. Such a thing could not be thought of for a moment. Mr. M. was not indeed fully prepared to say how far it would be proper to hear the Judge at all, but, in so important a case, he was for extending the rule of proceeding as far in favor of the accused as propriety would admit. He would not confine the Judge to too narrow rules in an investigation so important to his own individual reputation, and one having so near a bearing on our judiciary. The House surely were not afraid to trust themselves. He, for one, was disposed to listen to the Judge with all good feeling, but he should also, he hoped, exercise over his feelings a strong restraint of caution, while he endeavored to do strict justice between the accused party and the United States. Let him submit a written law argument. Let the House have an opportunity of hearing what his own views were. Few subjects involved more points of difficulty than the doctrine of contempts, and Mr. M., for one, was anxious to hear what could be said on both sides. In such a case, he should not stop to look at precedents. Mr. M. then moved an amendment, which was at first accepted by Mr. PETTIS as a modification; but, after that gentleman had conferred for a moment with the Judge, he concluded not to accept it, but modified his original resolution by inserting the word "written" before "statement," so as to propose that the Judge might deliver a written exposition of his views before the House.

Mr. SPENCER, of New York, said that the object of the resolution, as he understood it, was to permit Judge Peck to be heard. This object differed materially from that expressed in the Judge's memorial, where he prayed not only that he might be heard, but that additional witnesses might be sent for to Missouri. As to receiving a written exposition from the accused, in relation to the law which he supposed to have authorized him in what he had done, and also his commentary on the facts which had appeared in evidence, Mr. S. had no objec-

tions. If there was any law which went to justify his conduct, let him have an opportunity of showing it. Mr. S. would willingly acquiesce, provided his explanation were made before Monday next. The session was now far advanced; and, if Judge Peck were guilty, the justice of the country required that there should be no delay in bringing him to punishment.

Mr. BUCHANAN said he would not suffer himself to be betrayed into any feeling by the remarks which the gentleman from Missouri had made, or by any remarks which he could make. That gentleman had very evidently betrayed his own feelings in the case. He trusted he should treat the subject temperately and calmly. As to what my opinion is, (said Mr. B.,) that is contained in the report of the Judiciary Committee; nor had I ever an opinion on any subject more clear and decided. If the report "betrays" any feeling on my part, it is before the House and before the country, and they will judge. The question now before us is this, and this only: What is the proper mode of proceeding for us to adopt? My desire is that the House may establish such a precedent as shall protect the interests of the accused in all future time. The Judiciary Committee had Judge Chase's trial before them. The mode of proceeding in that trial they considered as strictly proper and delicate. The committee, in that case, were directed to report their opinion on the charges against Judge Chase which had been made on the floor of the House. For the purpose of enabling them to do so, they procured all the testimony in their power. This they reported to the House, together with a simple statement of their own opinion upon it. Nothing else. And why? I presume that, as it was a judicial proceeding, they wished to leave every gentleman to decide for himself upon the naked testimony. They considered one member as competent to decide as another. Their report was referred to the Committee of the Whole on the state of the Union, and there it was fully discussed. With this precedent before us, the committee are not justly liable to the imputation of the gentleman from Tennessee, (Mr. BELL,) who thought it very singular that the committee did not specify the charges, and give the grounds and reasons of their conclusion. If the Committee of the Whole on the state of the Union shall concur with the Judiciary Committee in their view of the case, then the House will appoint a committee to draught articles of impeachment, and thus present the charges in a specific form. These articles will be reported to the House, and the House will discuss and decide upon them. Until after this second decision shall have been made, the accused will not be called upon to answer. The course pursued in the case of Judge Chase gave to the party every thing he could reasonably desire.

Sir, what does Judge Peck state in this memorial? Does he allege he had requested of the Judiciary Committee that other witnesses should be examined? This he could not state, for the fact was not so. He made no such request; and I never even suspected that he had such a wish. Had he requested it, I, for one, should have thought it a very grave question, and one that demanded the most serious consideration. It is a question on which I confess my mind is not at this time fully made up. But that is not the question before us. We are now called upon to decide whether, after Judge Peck had declined to make such a request in the committee, and after the committee have reported the testimony, and their opinion upon it, to the House, it is proper to allow him at this stage of the proceeding to make his defence and examine his witnesses either before the same committee or before the House.

Our own precedents, it is said, differ from each other; but this is not the case, so far as they relate to proceedings against judges.

As to the case of the Vice President, he presented his own case before the House, and demanded an investigation. All cases are not necessarily subject to the same rule. One case may demand one course of proceeding, and another case require a different mode.

The remark which excited the ire of the gentleman from Missouri, was merely a response to an opinion expressed by the Judge in his memorial. I said that he had made his case rather worse than better, by his cross-examination. I am still of that opinion.

I believe the best course of proceeding in such cases, is that which the House have hitherto adopted. Give a committee charge of the complaint, and they will seek for disinterested witnesses from all sources within their power; they will inquire who is least excited? Who will be likely to give the most correct statement of facts? If they shall do this, and honestly aim at attaining the ends of public justice, without violating the rights of the accused, we shall have taken the most correct course. I am in favor of referring this whole case to the Committee of the Whole on the state of the Union. If that course shall be adopted, I shall not call up the report this day; but will endeavor to examine the precedents as well in England as in this country, and lay the result before the House.

As to the course pursued by the House of Representatives of Pennsylvania, in similar cases, which has been referred to by my colleague, (Mr. SUTHERLAND,) of hearing the defence of the accused, and examining his witnesses, before voting an impeachment, it has never met my approbation. I think I have observed great inconvenience, if not great injustice, from that mode of proceeding. It must necessarily prejudice the cause. The accused, instead of going before the Senate without prejudice, shielded by the presumption, both of law and justice, that he is innocent until he shall be proved to be guilty, will be arraigned at their bar, after having been convicted, upon a

full trial, by the deliberate judgment of the House. I repeat the opinion, that the best mode of attaining justice is to intrust such complaints to a standing committee, selected from all portions of the Union; and which, from its very constitution, must almost necessarily be impartial. The members of such a committee, acting under the responsibility which they owe to the House and to the country, and clothed with the power of sending for persons and papers, will ever be careful to draw their testimony from pure fountains. After having collected from impartial sources sufficient testimony to satisfy their consciences that the accused ought to be impeached, they will then report this testimony, with their opinion, to the House, as has been done upon the present occasion, and leave each member to judge of its effect for himself. In this manner the rights of the accused will be best protected, and the interests of justice best subserved.

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In conclusion, I say, let a suitable precedent now be established for future times. Let it be solemnly determined whether a judge, when accused, shall be at liberty to demand that his whole cause shall be tried before the House of Representatives before an impeachment is resolved upon.

In deciding this question, I trust the House will come to such a conclusion as will best secure the rights of the people and the accused, both now and hereafter.

Mr. ELLSWORTH observed that the amendment of the gentleman from South Carolina brought the House to what he considered the real question, and it was one which involved a point of great interest, but not of much difficulty, though gentlemen seemed not fully to agree. Whether we are to follow precedents already established in the cases of Judges Chase and Pickering, or of William Blount, Senator, or are to mark a new course to be followed hereafter, it is important that we act with caution, doing justice to the accuser and the accused, as well as to the public. If the House adopted the amendment, it would be only on the idea that the Judge was to be impeached or not, according to the judgment of the House on the facts already in evidence. On these facts he should be glad to hear the commentary of the accused, who ought certainly to have an opportunity of saying in his own behalf whatever he had to say. But, if a contrary course should be adopted, and the House should reject the amendment, he must conclude the House intended, upon this inquiry, that the accused should have liberty to introduce such evidence as he pleased, and thus to put the matter into the hands of the accused. Mr. E. said he could not consent to such a course. This House has no constitutional power to try the accused. We are to inquire after the oppression complained of, and to inquire until we are satisfied that an impeachment is necessary, but we can go no further; we cannot try the case. Is the accused to bring before us such witnesses as he pleases, to take the defence into his own hands, employ counsel, and try the charges fully and perfectly? This is not our business. We have no charges framed, nor can we have, until we decide to go forward. From what has been said on this debate, (said Mr. E.,) he was convinced some gentlemen misapprehended the nature of the duties of the committee on which he served.

This House was the grand inquest of the nation. A judge of the United States court was here complained of by a private citizen, for an alleged trespass upon his rights. The complaint had been presented to this House, who had referred the case to one of its own committees. The committee, in the discharge of their duty, had sent for all such witnesses as might enable them best to elicit the truth of the case; but he could assure the House that the selection had not been made *ex parte*. The committee had endeavored to obtain all such testimony as would enable them to present the case fairly to the House. The question now was, whether they should say to the accused, we will hear you on the testimony already obtained, or whether they would go further, and suffer the accused to introduce new testimony.

Of the preliminary facts, he could say that they were not of an *ex parte* nature. No doubt it was the duty of the House to get all the information they might deem necessary to arrive at the truth; but he denied the policy or the propriety of admitting an accused party to go before a committee into a thorough trial of his whole cause, with counsel to aid him, and then to call upon this House to say whether he was guilty or not. The committee had sent to Missouri for A and B, for C and D, including persons both for and against the accused. They might have procured other testimony, but they obtained all they thought necessary. It was now for the House to say whether the accused should have another hearing. English precedents in Parliament have been searched, and with the exception of Warren Hastings, who was impeached by Edmund Burke, rising in his place, the accused has never introduced evidence on the preliminary inquiry. If the amendment was adopted, he should understand the House as coming to the conclusion, that, as a grand jury, they were to get all the

facts necessary to show whether there was or was not ground of impeachment. But they were not to hear Judge Peck, as if he were on his trial before them; the House was not the body appointed to try him; and he hoped they would proceed on the ground that the accused was to confine his argument to such facts alone as this House might choose to investigate, and not to take the House into his own hands, as though he were to have a full trial on this floor.

Mr. HUNTINGTON addressed the Chair, in substance as follows:

I have read the evidence on which the resolution now under consideration is founded, with attention, not only because I am called to give my vote on that resolution, but because the subject of it is of deep interest to the parties immediately interested in it, and to the nation. If the Judge, whose official conduct is condemned, has so conducted as to require the constitutional interposition of this House, in the form of impeachment, we ought not to shrink from the duty imposed upon us, from a regard to his reputation, his future standing, or the severity of the punishment which will follow conviction. It is due, in such case, to the indignity offered to the country, to the disgrace brought upon the judicial office, to the honor and safety of the bar, that this House should seek to remove from a high and important station a judge who fills it so unworthily. But if he has committed no offence worthy such stripes—none embraced in the constitution from which we derive our authority to act—then it is due to him to give him our protection, to sustain his reputation, and to declare him innocent of that offence which would endanger the loss both of office and character.

Notwithstanding the respectable source from which this resolution has emanated, and with no feelings but those which proceed from an anxious desire to judge righteously, (for all the parties more immediately interested are strangers to me,) I cannot concur in the result to which the Committee on the Judiciary have come, on this interesting subject; and I hope that, in submitting the reasons on which my opinion is founded, I shall not be justly obnoxious to the imputation of favoring judicial tyranny, the worst of all tyranny, because so difficult to detect, and so oppressive in its consequences. I am a member of the same profession with the individual who is said to have been oppressed, and I can surely wish no rule should be applied to my brethren in Missouri, which I should repudiate when sought to be applied to myself.

The resolution submitted to us is, that James H. Peck be impeached of high misdemeanors in office. It is somewhat difficult, if not impossible, to give a definition of the term misdemeanor, as used in the constitution, which will include every case embraced by that word. It does not mean, merely, an indictable offence at common law; for if a judge should come on to the bench in a state of intoxication, or, while there, should employ himself in playing games of chance, he ought, in either case, to be impeached. Nor does the term include incompetency to discharge the duties of the office, arising from physical or mental inability. The judge holds his office "during good behavior;" but that phrase is the opposite of the causes for which he may be impeached—"high crimes and misdemeanors." What constitutes a judicial misdemeanor, subjecting to impeachment, must depend upon the circumstances of each case as they exist. As applied to this case, I think it susceptible of a precise definition.

It is an assumption of judicial power, exercised to the injury of an individual, and done *malo animo*.

To sustain this resolution, the committee must be satisfied that Judge Peck had no power to imprison, and erase from the roll of attorneys the name of Mr. Lawless, for the causes which led him to do it; that the exercise of this power operated to the injury of Mr. Lawless; and that it was done with a corrupt motive. If either of these points is with the Judge, the resolution ought not to pass. If they are all against him, it ought to be adopted.

I shall spend no time on the inquiry, whether Mr. Lawless sustained an injury by reason of the proceedings instituted against him, for it is obvious that a suspension from practice for eighteen months, and the deprivation of his personal liberty for four hours, were both injurious to him. The right, on the part of the Judge, to do these acts, and the motives with which they were done, are the only topics to which I shall ask the attention of the committee.

As to the right. Was the conduct of Mr. Lawless such as to justify the court in treating it as a contempt, punishable by imprisonment and suspension from practice? It may be assumed as a correct, legal proposition, that any publication, the object and design of which is to corrupt the fountains of justice, by its tendency improperly to affect the due administration of it in causes which are depending in the courts of law or equity, is a contempt, authorizing a summary proceeding by process of attachment, punishable by fine and imprisonment, and, in case of an attorney, by suspension from practice. And it is immaterial whether the effect is attempted to be produced by the operation of the publication on the judge, the jurors, the witnesses, or the public. It is equally immaterial what the text is, which is made the basis of the publication; it may be the opinion of a judge in a cause previously decided, or it may be any thing else; nor is it necessary that the design of the writer should have been accomplished. The essence of the offence consists in the intent with which the publication is made, and its tendency improperly to affect the decision of causes undetermined. Such is the law of contempts, as it relates to the proceedings which have led to the resolution

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before us; and its application to these proceedings is now to be considered.

Before, however, this is done, I deem it necessary to notice some remarks which have fallen from my friends from Pennsylvania and New York, (Mr. BUCHANAN and Mr. STORRS,) which, in my judgment, have no connection with the merits of the question under consideration, and are calculated to produce impressions not justified by the acts of the Judge which are complained of. I will not stop to examine whether these gentlemen, in the style and manner of debate in which they indulged, exhibited more feeling than properly belonged to the station which they occupy; for I am perfectly sure that neither of them was actuated by any other consideration than that high sense of duty which we all ought to feel; but I must say, topics have been introduced, which deserve, I will not say reprehensions, but a reply. My friend from New York told the committee, yesterday, that Judge Peck, in his written apology, had stated that, if he had erred in this matter, it was an error on the side of Government, and calculated to protect its interests.

[Here Mr. STORRS explained. The gentleman had misapprehended him. The Judge, in the paper which he had furnished, did show that he had erred on the side of the Government, and enumerated a number of cases where his decisions had the effect of saving the public land.]

Exactly as I understood him, (said Mr. H.,) though not expressed in the same terms. Sir, the observation was calculated to impress the committee with the idea that the Judge wished us to recollect that if he had proceeded in an unlawful manner, he ought to be shielded, because he had done so in order to favor the Government. Sir, no such conclusion will follow an examination of that paper. All that the Judge says is this: that, as very numerous claims were pending, which embraced the same principles as the case of Soulard, he felt it to be his duty to give that case a most thorough and close examination; and I say, that whoever reads that opinion, cannot avoid coming to the conclusion that it is both an elaborate production, and one written in good faith.

But we are told that the opinion of the Judge, except in one particular, was extra-judicial. If this was intended to afford an excuse for the criticism of Mr. Lawless, I differ most materially from the gentleman from Pennsylvania, (Mr. BUCHANAN,) and my friend from Virginia, (Mr. DODDRIDGE.) Neither do I agree with them in relation to these *obiter dicta*. My poor reading has led me to conclude that it is not best to travel out of the record, and to express a legal opinion in a case not before the court. But may I not ask whether, in this opinion delivered by Judge Peck in the case of Soulard, any man can see aught that looks like an extra-judicial opinion? He first settled the case, and he needed not to have gone any further; but he then proceeds as if he would say, if I have been wrong thus far, there is another point which makes equally against the claimants. That is all he has done. He gives different reasons for coming to the same result. They are reasons called for by the case, and such as it was not only proper, but his duty, to consider and discuss. The gentleman from Pennsylvania seems to lay stress on the fact that the Judge printed his opinion in a newspaper. If that remark was intended to have any effect, it must be this, that such a proceeding was derogatory to his judicial station. The gentleman says that when the Judge had given his opinion, there he ought to have stopped; but I ask, was there any thing improper in publishing his opinion? It is a proceeding, which, if not frequent, yet sometimes occurs.

When the bar requested this publication, ought the Judge to have told them that a compliance would be derogatory to the profession? But the gentleman adds that the Judge published this opinion in a political newspaper. Now, sir, I should be glad to know where he could have found any paper which was not political. If it was lawful for him to publish at all, I do not know where he must have gone to do it.

[Here Mr. BUCHANAN explained. As reference had several times been made to what he had said on that subject, he wished to remind the committee that he had said at the time that he knew the character of the paper only from the Judge himself; it had been designated by him as a "political newspaper."]

But the honorable gentleman, I will not say in the coloring he gave to the testimony, but in his comments and argument, inquired why Judge Peck solicited the name of the publisher. Did not the Judge know who he was? Was not his name on the paper? Now, sir, if this was meant for any thing, it was to strengthen the idea that the Judge had selected his victim. But surely the gentleman knows that no attachment could issue to bring the party before the court, without an affidavit to found it upon. And though the Judge might see on the face of the paper that A B was the publisher, he could not issue a rule on such evidence—it must be of record. There was, then, nothing improper in taking steps to procure an affidavit.

But the gentleman asks, why call particularly on Lawless, when all the bar and many other persons were present? Why, sir, Lawless was not specially called. The Judge inquired if any one present knew who was the publisher of that paper, and Mr. Lawless volunteered an answer to the question. Without that answer he could not have proceeded an inch. After Mr. Lawless (and the fact is creditable to him certainly) had verified the fact, then the attachment issued. But I have more to do with the matter than the manner of the Judge. And I proceed to inquire, Did Judge Peck assume an authority which he did not rightfully possess?

The committee has been told, over and over, in a style the most warm and animated, that his conduct was arbitrary, oppressive, unconstitutional—calculated to destroy the liberty of the press, and that this gross assumption of power was called forth by the exercise, on the part of Lawless, of his undeniable and unalienable right as a free citizen of this republic. Sir, let us descend a little from this lofty pinnacle, and let us calmly and coolly ask, what did Mr. Lawless do? And was his act a contempt of court? He published an article signed "A Citizen" in one of the papers of St. Louis, and which has been called "a respectful commentary" on the Judge's opinion. Now, sir, there is no member of this House, whose voice would be sooner or louder raised against any attempt to suppress the legitimate freedom of the press. I hope I shall not be charged with any desire to violate it. And I hope that our courts of justice will never be held to be so sacred, that their adjudications may not be the subject of fair and temperate animadversion. No man is above it, or ought to be above it. The moment you curtail the freedom of the press, you destroy liberty.

But, sir, while I guard the freedom, I am as greatly opposed to the licentiousness of the press; I will take care that the object of such animadversions shall not be to bring down upon a court the vengeance of the public, and thus affect the great and vital interests of justice, and the peace and well-being of society. The case has been treated as if this article, signed "A Citizen," was no more than a fair and honest commentary on the opinion published by the Judge. Sir, was this so? Were there not causes pending, of a similar kind with that which had been decided? It is admitted—it appears in evidence, there were other causes depending on Spanish concessions to be adjudged in that court. Look then at this publication, and see what its object was. What was its motive? And what was likely to be its effect on the causes pending? Sir, what does Mr. Lawless tell us? (No doubt he has a right to come here and spread his wrongs before this House, if he has suffered any—but he is the accuser—the witness in his own cause.) And what other witnesses have we? His two counsel. I do not deny that these gentlemen are competent witnesses—but what does every man of common sense know? That a party in interest or his counsel are to be heard with allowance for their natural bias. One of my friends has related to me a fact on this subject. A judge was some time since trying a cause, when some point occurred of evident truth, but to which there was no witness. One of the counsel in the cause offered himself as a witness to prove the fact; but the judge suggested to him that it would be better to let the cause go off, until a witness could be obtained; because it did not seem becoming in counsel, when a cause pinched, to offer himself to be sworn. The lawyer, however, insisted. When the judge said to him, "You are a competent witness, and I may not refuse to have you sworn; but, if you do testify, I shall instruct the jury not to believe one word you say." The judge may possibly have stretched the rule, but the counsel will never forget it. And in this case I do not say the witnesses are not competent, but I say they are parties in interest: and yet such are the principal witnesses in the case. Now, I ask, what could have been the motive of Mr. Lawless in writing that article? It is said that it was to put his clients upon their guard, and to prevent them from becoming the prey of speculators. Sir, this article itself develops his secret motive—it seems to me that I can read his heart as plainly in that transaction, as if it was laid open before my eyes. Is it not demonstrable that his motive could not have been that which is assigned by his advocates here? If it had been, what could have been easier than to have inserted an article in the paper, stating that the decision in the case of Soulard was not final; that an appeal had been taken to the Supreme Court of the United States; and that the cause was to be considered as still pending, and recommending to his clients to wait the issue before they took any steps in relation to their claims. But, no; he did not take this course, but inserted an article virtually holding out to his clients this language: Do not be affected by this opinion of Judge Peck—it is quite erroneous. And did he not know that it was to be this very Judge Peck who was to sit upon their causes to try them? And would his clients be deterred from selling their land by this? Was it not the very strongest reason why they should sell? No, sir. It is impossible his motives could have been such as gentlemen suppose. Charity believeth all things, and covereth a multitude of sins; but charity herself can have no room here. If this was not his object, what was it? It was the object of that article to affect the adjudications in the other cases, either in producing in the Judge an alarm, which might check his progress, or, if he was not to be intimidated, then by pre-occupying the minds of those who were to become jurors and witnesses. This was the obvious tendency of the publication. It was a direct appeal from the court to the public, stating that the Judge had been guilty of errors, both in law and in fact. Every citizen who read the article and believed it, would say, this judge is not competent to his duty, and he should not be here. He has been guilty of eighteen assumptions in one opinion, all of which are erroneous. Sir, this was the only effect the article could have, and it is fair to infer that this was the end for which it was written. Now, if it was, then the act falls within the principle which governed the law of contempts. It was intended to operate on cases still *sub judice;* whether the author effected his purpose or not, is immaterial. The design of his publication was a contempt. I have adverted to this, not

so much for the sake of stating my own opinion in relation to it, as with a view to correct the erroneous view which I think has been given by every gentleman who has spoken in favor of the impeachment. I appeal to all who hear me to say whether the resolution has not been advocated in fact upon the sole ground that the object of the publication of Mr. Lawless was fair and honest and commendable, and not designed to have any effect upon the causes pending. Now, can a design be called honest and fair, which goes to corrupt the fountains of justice, no matter how this is effected, whether through the judge himself, or through the jurors and witnesses? To test the truth of this idea, let us suppose that, instead of the article signed "A Citizen," Mr. Lawless had written one in this form: "To all persons who may appear as jurors or witnesses at the next term of the district court for the district of Missouri, before the Hon. James H. Peck, Judge of the same: take notice, that, at the trial of Soulard's heirs, the said Judge assumed eighteen points of fact and of law, all of which were false." I ask, would any man have doubted whether this was designed and calculated to impress the public mind in a manner unfavorable to the court? Sir, there is not a man who could read this notice, and compare it with the opinion of Judge Peck, that must not suppose, if he believed it true, that the Judge was either a very wicked man, or else a natural fool—that he was too ignorant or too corrupt to hold his station. I now leave this part of the subject, and, after a word or two more, I shall have done. If it will not be thought by my friends from Pennsylvania and Virginia to be extra-judicial, I will go one step further. If I have been correct so far, nothing more need be said; but suppose I have been mistaken, there remains another view to which I must advert, at the hazard of being charged with an *obiter dictum;* and I ask whether, in the conduct of Judge Peck, there is reason to infer the absence of malice, whether we are obliged to suppose that he had any other motive than to uphold the honor and purity of the court. Sir, it is one of the most difficult things in the world to judge of men's intentions; and I could not but feel some surprise at a remark of my friend from New York, (Mr STORRS,) who observed, if I understood him, that we need not look with eagle eyes into the motives of the accused, seeing that we were only taking the preliminary steps towards a prosecution. Now, sir, my limited practice had led me to believe that, in all proceedings *ex parte*, there was a peculiar necessity that the evidence should be full and satisfactory. And is it so that we must not look into the motives of the accused? If not, then there is an end to all fairness. And what is the conclusion? The accused must look out for himself. But surely the presumption of malice may be rebutted by circumstances; and I cannot conceive how the gentleman could have supposed that there was any other motive in this publication than a design to bring the court into contempt.

[Mr. STORRS here explained. What he had said was, that the committee were not bound to look with eagle eyes for palliations of the offence, substantiated by testimony.]

Just as I understood him, said Mr. H., and I enter my entire dissent from the doctrine. I am a perfect non-believer in it. The question we have to settle is, whether the circumstances are such as to infer an honest or a malicious intent. If Judge Peck viewed this anonymous article as more calculated to impress the public mind than if a direct charge had been advanced of ignorance or corruption, then I do not wonder that he came to the conclusion that the intent of the writer was to embarrass the causes which might come into his court. I have looked at the criticism of the Judge's opinion, and I say that every charge has been highly colored, and that in others there has been a complete distortion of the Judge's meaning. I ask every gentleman calmly to compare the article signed "A Citizen," with the opinion of Judge Peck, and to say whether it is not a perfect caricature of that opinion. And if the Judge entertained this opinion, then you find a motive at once for his conduct. The article held him up to an abused public as incompetent to the duties of his station; and if it did so, then I say that the Judge acted from a motive which is fair and becoming in every man who means to protect himself; and I say further, that a judge, believing that one of the counsel in his court had been guilty of such an attempt to corrupt the fountains of justice, and did not lay a heavy hand upon him, is not fit for his station; and as long as I shall continue a lawyer at the bar, I am perfectly willing to subject myself to the same rule. I do not wonder that the Judge's commentary on this production occupied three hours. The subject had been laboriously examined by him, and had been fully set forth in his opinion; and I do not wonder that a circumstantial examination of it, and refutation of the falsehoods in the article, should have taken him a considerable time. But, sir, we find a motive independent of this. In what circumstances was the Judge placed when he made this examination? He was surrounded by a number of gentlemen, members of a profession honorable in itself, and as useful as it is respectable. Among them all he found no voice in favor of the Government; but every member of the St. Louis bar, excepting, perhaps, the attorney of the United States, was retained, either as attorney or counsel, for some of these claims. It is said that Mr. Lawless was personally interested in the case of Soulard; whether he and the other gentlemen were to share profits with the claimants, is not for me to say; but, in the State from which I come, a lawyer who would lend his professional services in a speculation of that kind, would, if detected, be stricken from the rolls with disgrace. What morality

may prevail to the westward on this subject, I know not; perhaps the practice there may be considered very honorable. All I shall say is, that I am very glad such notions have no place in my State. A judge thus surrounded had been publicly charged with not knowing the fact, or the law on which he was called to decide. Now, sir, I confess I do not know any thing more calculated to touch his reputation or wound his feelings. Perhaps a charge of corruption might have been a little worse, but I believe that most men would nearly as lief be charged with one as with the other. The Judge did show a little feeling on the occasion —I think I should have shown much more. He sat patiently, and heard the charge fully argued. The accuser himself says that he was permitted to discuss it so long as he wished, and during this time there was nothing in the Judge's demeanor different from what it was at other times. Now I ask what motive could the Judge have had to oppress this man? Was it his interest to do so? Evidently not. Was it any malicious resentment? Why, sir, Mr. Lawless himself says that he and the Judge had always been on good terms. I therefore conclude that he acted on this occasion in good faith, though it is possible that he mistook his powers. But it seems to me that the very circumstance most insisted on as evidence of evil intent in the Judge, is pregnant with evidence in his favor. It is said that he exhibited passion in his manner, and that his language was violent. Well, sir, I admit that he was somewhat indiscreet; but I am yet to learn that warmth of manner is evidence of corruption. Is the manner of a person who designs to perpetrate oppression under the mask of judicial power usually warm and passionate? No, sir! he comes coolly to his task of hypocrisy; he expresses great regret at the task imposed on him. He begins by degrees, looks earnestly upon the assembly and compassionately upon the culprit, speaks of the enormity of his offence, regrets extremely that he should have been guilty of it, asks him if he is ready to apologize, and then proceeds to the blow for which all this preparation was made, and strikes his victim from the roll. Is that the deportment of the Judge? We find him warm and animated, over-excited, perhaps rash in his language; but does not this betray an honest conviction that he would be faithless to his duty if he did not punish a flagrant outrage on the administration of justice? When attempting to ascertain the motive of the Judge, ought we not to remember that he offered the offender the opportunity of purging himself by oath, which was refused; and my friend from New York thought it astonishing that any one should consider this refusal as an aggravation of the contempt.

[Here Mr. SPENCER explained. He said that when interrogatories were offered they were never limited, and the accused could not know what would be the nature of them.]

Sir, this circumstance furnishes my mind with a presumption in favor of the Judge. The interrogatories necessary for the accused to purge himself from intentional contempt, were few and simple. The question was put to the printer, whether Lawless said that he did not intend any thing like contempt towards the court, but afterward we hear nothing more of this. If the object of the Judge had been the gratification of revenge, we should have heard of no interrogatories. I will not say that the Judge was authorized in doing all that he did, but I insist that the offer of interrogatories was no addition to his guilt.

I feel very thankful for the attention with which the committee have indulged me. I felt that the case was a very important one; and as very distinguished friends held an opinion with respect to it the reverse of my own, I considered it to be my duty briefly to state the reasons for my own opinion, and for the vote which I shall give against the impeachment.

Mr. BATES, of Massachusetts, observed that this was a high criminal proceeding against a high officer of Government. The accused ought to be treated with the utmost liberality. He need not speak of the effects of the present proceeding, either on the character of the accused party or upon the Government. Merely to allude to the expense and trouble incident to a trial at the bar of the Senate, and the necessary and consequent delay of business, would be sufficient to induce a proper degree of caution on the part of this House, in instituting this constitutional process.

An application was now made by the friend of the accused, that he might be permitted to make a communication to the House, orally or otherwise, as he might choose, in relation to the law and the facts of his case. He hoped the privilege would be accorded. He was not for fettering the Judge, and restricting and embarrassing him by too much regulation; or by the commitment of his friends in this House to this or that course. Let him be heard in the way he might himself prefer. Mr. B. denied that the House was to proceed in the character of a grand jury. He had much doubt on the propriety of receiving only *ex parte* evidence, in many cases, even before an ordinary grand jury; but the reasons for it there would not apply to this House. If the accused was desirous of being heard either on the law or on the facts, Mr. B. was for hearing him. He thought it due to him. He hoped the resolution would be adopted, in the confidence that Judge Peck knew what belonged to this House, and what became him as a judge and a gentleman.

[Mr. BURGES followed Mr. BATES, of Massachusetts, whose speech concluded the debate for this day.]

TUESDAY, April 13.

Buffalo and New Orleans Road Bill.

The House went into Committee of the Whole, Mr. HAYNES in the chair, and took up the Buffalo and New Orleans road bill.

Mr. LEA said that he had hitherto refrained from engaging in this discussion, partly on account of the exceeding reluctance and hesitancy with which he would at any time ask to be heard in this hall. But he had been influenced, also, by a desire to offer an amendment to the bill, at the time of presenting his views on the subject generally. Since an early stage of the debate, this had not been in his power, in consequence of the amendments and motions which had been pending; and he was aware that the same difficulty yet continued; but the manner and progress of the discussion had admonished him that he should not longer refrain, and that he ought to use the contemplated amendment by way of objection and argument against the bill in its present form. He would thus be able to exhibit the comparative advantages of the plan of the amendment for executing this and similar works, and both modes would then be before the committee, so that gentlemen could fairly consider whether they would be willing to adopt either. If so, they would be prepared to vote against the motion now pending to strike out the enacting clause of the bill; but, if otherwise, they would sustain that motion which goes to defeat the whole bill. He thought it particularly proper, in order to test this measure fairly, that both plans, and the whole subject, should be fully developed, before the committee, previously to taking a vote on this question, which may be decisive.

I have thus, said Mr. L., indicated, in a few words, my object generally; and I hope the committee will now indulgently allow me to present my views more at large. The peculiarity of my situation may afford an apology not only for my speaking, but, also, for giving some of my remarks a local direction. With but very humble pretensions, I have desired to be equally unassuming—and I might not have felt myself called on to depart, on this occasion, from my habit of silent voting, if this bill had not addressed itself directly to the homes, interests, and feelings of my constituents. But the proposition of the bill is, that this road shall run through my district somewhere; and (in the "glorious uncertainty" of these projects) that is taken to be almost anywhere and everywhere. The engineers, to be sure, travelled along the principal stage road through that country, and that is understood to be the western route indicated in their report. But there are many other roads running in the same general direction, along the extensive valley of East Tennessee, between Kentucky on the one side, and North Carolina on the other; and private surveying has been resorted to for ascertaining the nearest and best way. And how many is it supposed there are of the good people along these respective roads, who have any doubt that the way nearest to their dwellings is the very best way in all the world for this great national road? All but one route (and that one, too, perhaps) must, in the end, be disappointed; but, until the matter shall have been settled, hope will continue the flatterer of all.

This multiform offer of a road to a people who have never received any thing in this way, and who feel the want of improved outlets to market more than any other part of the Union, has naturally produced uncommon excitement in that quarter. It is not difficult to know the variety and luxuriance of the growth of such a hotbed. Many of my honest constituents have been led away by vain expectations, which they will never realize, and excited by means, some of which it is unnecessary to explain. Not only much speaking and writing have been resorted to, but, also, neighborhood, town, and county meetings have been held, to discuss and decide the constitutionality and expediency of the very bill now under our consideration; and with the view of instructing me, and requesting others to support it, as constitutional and expedient, not merely for making such a road as is proposed in the bill, but a railroad, according to the rage of the times—even a splendid national railroad!

It is not my purpose now to inquire into the motives of any who participated in those meetings, nor am I disposed to be outdone by any of them in matters of civility. I, therefore, take occasion to perform a twofold duty—first, of rendering my acknowledgments to all of them for the attention which they have been pleased to pay to me during my absence from home—and, secondly, of tendering the thanks of some of them to the honorable chairman, and the other honorable gentlemen of the Committee on Roads and Canals, for this precious bill, which seems to be regarded by some as almost a providential means of hastening the millennium itself!

Having discharged thus much of my duty, I should neglect another part of it, were I not to make some further remarks concerning these same meetings; for it so happened that, at some of them, a majority did not feel themselves quite so much flattered by the bill as to give it their approbation. Such was the result, I understand, at those meetings, where the subject was fully discussed before the people. They were a little shy of this proffered favor. The hook must be better baited before they can be caught. I have forborne from censuring any one; but, I should not do justice to my own feelings, considering the extraordinary excitement which this matter has occasioned among my constituents, if I were to refrain from awarding my feeble commendation to such of them as have opposed this bill, so really degrading, and yet so flattering to interested and superficial observers. With such temptations before them, and in the midst of

great clamor in favor of the bill, they have manifested that kind of moral courage and political virtue, on which the liberties we enjoy must always depend—and even those who may candidly differ from them in opinion, must acknowledge the sterling patriotism of their course, in adhering to what they regarded as correct principles. Liberty to them is more valuable than gold—and I am proud to have the honor of representing such freemen.

Another consideration adds to the peculiarity of my situation. I find myself the only member on this floor from several hundred miles of distance along the contemplated route of this road, who refuses to take this dose of poison, as it has been prepared. Two of my honorable colleagues immediately to the west of me, and another, with two honorable gentlemen from Virginia, immediately to the east of me, are in favor of this bill, although they have arrived at that point by different roads, some of which are new and untravelled before. For all of these gentlemen I feel a sincere friendship personally, and I have, also, been in the habit of harmonizing with them on political subjects generally.

Perhaps you may consider my situation rather embarrassing, in the midst of such a multiplicity of routes through my district—such a diversity of sentiment among my constituents—and such cross-firing from my friends in this hall. I confess that I derive no pleasure from this confusion—that I regret the conflict of opinion and of interest; but not so much from considerations personal to myself, as from others of public concern. Yet, it is to no purpose to express unavailing regrets; every one must act on his own convictions and responsibilities; and I assure the committee I have not the least doubt or difficulty as to my own course. I will not vote for this bill. I cannot approve either of its principles or of its details. But I am not, therefore, an enemy to internal improvements; on the contrary, I would favor all of a proper kind, to be executed in a proper manner. A good road through my country would doubtless be very convenient; and, certainly, I would have no objections against it in itself considered, but I have some objections against obtaining it at the expense of my own oath and the constitution—our liberties and permanent welfare.

Some honorable gentlemen have told us much of their obedience to the will of their constituents. I, too, acknowledge to some extent, the force of such an obligation; but not quite so obsequiously, perhaps, as some of my friends. I would not be understood as regardless of their good opinion. I would prize it highly at all times, either in public or private life. Nor will I affect indifference to my own destiny; and it will be my business to satisfy my constituents of the correctness of my public conduct; but, whether I shall be able to do so or not, is to me a secondary consideration; for I hold that no man is fit to be a representative here, who can hesitate as to a choice between his own personal popularity and the preservation of the true principles of our Government. To them I look and adhere, as the best means of promoting the best interests of my people, rather than to delusive expedients for relief or pitiful advantages, resulting in no permanent good, but answering, for a time, the purposes of certain candidates for popular favor.

I was sent here to act on my oath, to do good, not mischief—to execute, not violate, the great compact of this Union.

My constituents, of all classes, have long known that I could not vote for any such bill as that now before us; and, while some of them have been asking me to do so, they must have had other motives than even a hope that I could comply with their request. They know my sentiments, and they expect me to maintain them. A majority of them sent me here as a State right republican, as contradistinguished from a national republican. They are jealous of the assumed, overgrown, and increasing powers of this splendid Federal Government; and they are not willing to look to it as the "dispenser of every good and perfect gift under heaven." They see that it is becoming more and more the fashionable idol of the times, especially among those who desire to be initiated, or to continue priests at the altar; and they fear the danger that a new and ponderous machine will be fabricated as a substitute for the beneficent original; and that the idolatrous worshippers of this political Juggernaut, in whole communities, are to be crushed beneath its wheels. The thing has progressed some distance already; the devotees are assembling; and new converts, even from those who were thought to be steadfast in a better religion, are prostrating themselves before it. I yet belong to another faith; and, instead of these immolations having any tendency to proselyte me, they render the scene appalling indeed, and establish me in my own creed.

It cannot be expected that all will agree in opinion, either as to politics or religion; but there are, nevertheless, in each, both positive and comparative differences between right and wrong, on which must depend the faith of individuals and of nations; and it should be the effort of every one, at all times, to attain the nearest practicable approximation to truth. But while important differences must exist, a spirit of toleration, and even conciliation, is indispensably necessary to prevent ruinous distraction. Who can look to the vast and various interests by which different portions of this extensive country are influenced—by which their representatives here are propelled in different directions, without discovering the utter hopelessness of long managing the great concerns of this Union to advantage, or even continuing the partnership, without exercising the utmost forbearance, and executing a determination not to push matters to extremity? When this General Government moves on the border of

the constitution, even then prudence gives a caution; when it unscrupulously passes over a doubtful boundary, and occupies every inch of disputed ground, harmony and good feeling must yield to jealousies, animosities, and contentions; but whenever it shall boldly, deliberately, and perseveringly march further, and invade the undisputed territory of others, then the natural consequences must be, (as when the Rubicon was passed, and Rome was no longer free,) anarchy first, and despotism next.

This Federal Government has often sported wantonly on doubtful ground; occasionally, but inadvertently, perhaps, it has trespassed further; but if the bill now under consideration should ever become a law, in its present form, it would be idle, insulting, to pretend that we aim at any thing short of consolidation, and a complete conquest of the State authorities.

I consider this bill as the most direct and daring attempt upon State jurisdiction and authority, that was ever before a Congress of this Union. Is it not? What does it amount to? Nothing less than a positive direction to the President to take prompt and effectual measures to have a road made from the northern lakes to New Orleans, near the southern gulf, without saying one word as to the manner in which the jurisdiction or rights of States, or corporations, or individuals, are to be regarded or adjusted, in cases of difficulty. The strong arm of power must not be stayed, but must act promptly and effectually to accomplish the object, no matter whose rights or what obstructions may interpose; for gentlemen have tauntingly told us, here and elsewhere, that an act of Congress cannot be controlled, unless the political omnipotency of the Supreme Court shall condescend to advise us of error. And is such a power as this to be put into the hands of the President of this Union, at this early day? Is he to be authorized, commanded, to go forward and make this road, without regard to the rights of anybody? The like of it never was heard of in any country that was not a downright tyranny, or where there was even a decent respect for the rights of man. Some mode of ascertaining rights, and compensating for damages, would seem to be indispensable. I have no disposition to push scruples or apprehensions beyond due bounds, but this bill has no bounds as to principle—and when or where are we to stop?

At a proper time, it is my intention to offer an amendment, with a view of saving the rights of the States, of corporations, and of individuals, as far as practicable. At present I can only urge it as an argument, to show that the bill is not as it should be, and to point out a better mode of executing this and all similar works. By contrasting the amendment with the bill, the imperfections of the latter will appear more strikingly, perhaps, than by any other means; while there will be exhibited a plan for conducting internal improvements, under the auspices of this Governnment, by which many and serious difficulties will be obviated, and which I think well worthy of the most deliberate consideration of every citizen of the States of this Union. We are told that this Government will progress in the business of internal improvement, and some gentlemen seem very confident in this opinion. If its progress in that way should be very extensive, it must be matter of great importance that some plan should be adopted to attain the ends in the least exceptionable manner. The amendment which I expect to offer, will be a test of the political principles of gentlemen on this floor. It is of a character too distinctive to be mistaken by any politician, and the people at large will understand the vital difference between it and the bill, in their respective tendencies. I avow my objects frankly: first, to put the bill right as far as possible; and, second, if its friends will not adopt a better plan, to put them thoroughly in the wrong.

Mr. MUHLENBERG, of Pennsylvania, rose to claim the indulgence of the committee for a few moments only, as he did not wish to enter into a lengthy discussion of a subject which had already been more than sufficiently discussed. He presumed every member of the committee, who had given it any attention whatever, must, by that time, have made up his mind upon the question; and he could not flatter himself that any thing he might say, for or against the measure, would change a single vote. He rose merely to express a regret at the vote he found himself obliged to give if he wished to satisfy his own conscience, and promote, in his view of things, the best interests of the whole people of the Union, as he considered himself a representative for the whole, and not for a part only.

Sir, (said Mr. M.,) I must, when called upon, record my vote against the bill on your table. I regret this circumstance, because I shall thereby vote against a measure which my much esteemed friend and colleague, (Mr. HEMPHILL,) the honorable Chairman of the Committee on Internal Improvements, seems to have much at heart. He, no doubt, sincerely believes that it is a measure which will tend to the general welfare, and promote the good, not only of his native State, but of the Union at large; that it will further the interests of commerce, of agriculture, of manufactures, add to the comforts of the people in peace, and their security in time of war, as well on the southern as on the northern and northwestern frontier. A more amiable man, a more patriotic and disinterested legislator, may not be found on this floor. He may possibly be correct in his views, and I in error. It is, however, human nature to differ; but every honest man must be guided by his own convictions of right and wrong, of the expediency or inexpediency of any measure upon which he is called in duty to decide.

I regret (said Mr. M.) the vote I must give, because it is in opposition to the opinion of

many, perhaps in opposition to the opinion of a large majority of my colleagues, who have more experience in legislative matters than myself, and for whose opinion, collectively, and individually, I have the highest regard.

I regret it, because it is apparently against the immediate interest of a considerable portion of my native State, which I have the honor to represent, in part, on this floor, so far at least as the expenditure of a considerable sum out of the common fund, within the boundaries of that State, may be considered a benefit.

But (said Mr. M.) duty compels me to overcome these regrets. What I owe to the people and their welfare, calls upon me to lay aside all personal feelings, and vote against the bill under discussion; not, indeed, because I think a measure of this kind unconstitutional. No, I have no scruples on that head. If that were the only point in dispute, I could have no hesitation and no regrets in giving a vote on the question. It would afford me pleasure. I consider it a point long since settled—a point which, at this day, should not be called in question. If Congress have not the right to authorize internal improvements, for the purpose of regulating commerce and promoting the general welfare, to render the transportation of the mail more easy and rapid, to contribute to the comforts and happiness of the people in time of peace, and their security in time of war, it has no rights whatever; it might as well not exist—it might as well be expelled from this hall. I vote against the bill, not on constitutional principles therefore, but because I think its passage unnecessary and inexpedient, at this time at least.

The passage of the bill, I contend, is unnecessary. It is not necessary, as some gentlemen who have preceded have asserted, to establish a constitutional principle, the right of the General Government to make internal improvements. No, this question, as I have already said, has, in my humble opinion, been long since settled. Whatever this Congress may do, it will neither tend to settle or unsettle it. The express words of the constitution itself; the opinions of our ablest men on the bench; the opinions of all our Presidents, from him who was deservedly first in the hearts of the people, from Washington down to the present illustrious Chief; the opinion of the lamented Clinton, undoubtedly a statesman of the very first order; the opinions of a large majority of our State Legislatures—all have established it beyond a question, except with a few, who, although no doubt sincere in their opinions, and on that account ought to be respected, are yet too much in the habit of splitting hairs both on the north and south side, to have much reliance placed on their judgment. Neither (said Mr. M.) does the passage of the bill appear to me necessary, as is further contended by some gentlemen who have been in advance of me, to promote the interests of commerce and agriculture, the transportation of the mail, the comfort of the people in peace, their security in time of war. No, I am far from admitting this. From this place to Buffalo, we have already more than one road, and probably as direct as any can be made. None certainly can be made better for less than three times the sum fixed as an average for the mile in the bill now before us. Indeed, we have, by taking a circuit of a few miles, an excellent turnpike for at least one-half the distance. We want, at present, in our section of the Union, no more roads for the accommodation of trade, or the transportation of the mail, or even for the comfort and convenience of travellers; and as for the conveyance of troops and munitions of war, it is futile to speak about it. I have, to use the words of the venerable gentleman from Rhode Island, who sits on my left, (Mr. BURGES,) "been utterly astonished and confounded" at the assertions of some gentlemen in this respect. How long could a mud road, costing only fifteen hundred dollars a mile, be used for such a purpose, in the Spring and Fall, if Government chose to use it, which I strongly suspect will never be the case? The situation of the South and West, I will admit, may be different. They may be more in want of roads than the northern section of the Union. I do not pretend to pass a positive opinion. But grant to the States, south and west of this, through which the road is proposed to be run, the sum to be expended under the bill, and the road will be infinitely better made, at much less cost, and in one-half the time. Indeed, admitting the road to be made, I know not what you are to transport upon it, either in peace or in war. Not only the cutting of innumerable roads, the opening of canals, the improvement of our rivers in every direction, but the use of all-powerful steam, has, within a few years past, since the conclusion of the late war, upon which gentlemen have harped so much to show the necessity of this road, entirely changed the whole situation of our country as regards internal communications. Produce will no longer be conveyed by land for any distance. It will everywhere seek the watercourses, and they are everywhere near at hand. Troops and munitions of war, if they should hereafter be required at extreme points, will be moved upon these three times the distance in one-half the time that would be required upon land, where, with the best of roads, railroads excepted, the practical result of these, carried to a distance, has not yet been fully ascertained.

WEDNESDAY, April 14.

Judge Peck.

The SPEAKER presented to the House a letter from Judge Peck, accompanied by a written statement or argument, in explanation and defence of his official conduct in the case complained of by L. E. Lawless, communicated in

pursuance of the permission given by the House some days ago.

Motions were made to commit the argument, and to print it, without reading, as it appeared to be a voluminous statement; but

The reading was demanded, first by Mr. WICKLIFFE, and withdrawn, then by Mr. DANIEL, and, after proceeding some time, by him withdrawn; next by Mr. WILDE, and the reading continued some time longer, and then withdrawn; then by Mr. STORRS, of New York; and, after the reading had progressed some time longer, (in all an hour and a half,) Mr. S. withdrew his motion, and the further reading was suspended.

The statement was then ordered to be committed to the Committee of the Whole to which was committed the report against Judge Peck; and

Mr. CLAY moved that it be printed, with one or two of the papers which accompanied and were referred to in it.

Mr. MCDUFFIE moved to print, also, the memorial of Mr. Lawless, complaining of the conduct of the Judge.

Mr. STERIGERE moved to lay both motions on the table. Negatived.

Mr. DAVIS, of South Carolina, moved to except from the printing the papers accompanying the statement of Judge Peck, which was agreed to; and

The statement of the Judge, and the memorial of his accusers, were ordered to be printed.

Buffalo and New Orleans Road Bill.

The House then took up this bill, as reported by the Committee of the Whole yesterday; and, having concurred in filling the blank with four dollars, as the daily allowance to the commissioners,

Mr. SPEIGHT moved to lay the bill on the table, with the view not to take it up again.

Mr. WHITTLESEY demanded the yeas and nays on this question, and they were ordered; when

Mr. SPEIGHT, to accommodate his colleagues, who wished to renew their amendments, withdrew his motion.

Mr. CARSON then renewed the motion which he made in committee, to amend the bill, by striking out the part prescribing the route for the New Orleans road, and inserting a provision, directing the adoption of the "most direct, practicable" route.

Upon the amendment, Mr. CARSON offered some observations on the length to which the discussion upon the subject had already extended, and asked for the yeas and nays.

The call being sustained, they were ordered.

Mr. BLAIR, of Tennessee, said that he was aware that it would not now be in order to reply to what had been said by gentlemen in the opposition in the committee; but as his friend from North Carolina (Mr. CARSON) has now repeated, in part, what he had said in Committee of the Whole, he was gratified in having it in his power to correct that gentleman in a gross error into which he had fallen, as to the organization of the Committee on Internal Improvements, of which he was an humble member.

He has charged that the location of the road upon the western route was the result of combination in the committee, and has parcelled out to each member of that committee his portion of the local benefit to be derived from that combination. Sir, I cannot, I will not, believe that my worthy friend intended to impugn my motives in this matter, though such would be the irresistible conclusion, from reading his printed speech. I take this opportunity of informing my friend that I am the only member of the committee who voted in favor of reporting the bill, who was in the slightest degree interested in its location on the western route, or resided on or near to any part of that extended line. It is true that my colleague on the committee (Mr. CRAIG) represents a district in Virginia which is intersected by the road, but it is due to that gentleman to say, that his determination to support the bill has been made since it came from the hands of the committee, and was reported without his support. No other member of the committee resides on or near to this road, or the branch contemplated from Zanesville to Florence; hence, if a combination of interested persons produced the location in the bill, I must have combined with myself, and with no one else.

To relieve the present committee from imputation, I can inform my friend from North Carolina, that this bill was reported by the Committee on Internal Improvements of the last Congress, as it now is, upon the western route. Will he look to the organization of that committee, and inform me who were the parties in interest then, and why and wherefore was it that that committee selected the western route? If I am not mistaken, the gentleman from Maine (Mr. BUTMAN) is now the only member of that committee who voted for the road, who was of that committee last Congress. This bill had been reported by our predecessors, (not one of whom resided on that route,) giving preference to the western route; and my friend from North Carolina will believe me when I say that their having given preference to the route on which I resided, was not likely to call forth any objection from me. Nor am I at liberty to suppose that the location of the road upon the route on which my friend resides, would have been calculated to give offence to him, were I to judge from the pertinacity with which he clings to his amendment for changing the route to his own district. I have felt it due to the committee and myself, as well as to that substantial friendship which has subsisted between the gentleman from North Carolina and myself, to make this statement and correction, believing that if I were to suffer myself to lie under the imputation to which his

remarks would subject me, I would be in danger of forfeiting that good opinion which I am convinced he now entertains of me.

Mr. CARSON shortly rejoined, urging the advantages of taking the direct route, which it would be a truism to say was the nearest route. It would shorten the distance by fifty miles. The West, he observed, in the course of his argument, the West had received its full share, in the way of appropriation for their benefit, by the grants of public lands, for the purpose of improvement within the States, in that section of the amendment. To show the influence which had been brought to bear upon this matter, he might perhaps mention that it had been said by one of the members of the Pennsylvania delegation, that if Mr. CARSON did not vote for the bill, he (the person speaking) should not give his sanction to a bill, for the passing of which he (Mr. C.) was anxious. He also instanced a case in which a member from West Tennessee had used language of a similar import.

Mr. A. H. SHEPPERD thought the order in which the amendment should be proposed should be the same as had been followed in the committee. He therefore moved to strike out the word "western," in the fourteenth line of the bill, (respecting the location of the line of road,) and insert "middle" route.

Mr. VINTON made a few remarks on the subject of himself and his constituents being entirely uninterested as to what course it might be decided by the House that the road should be run. He lived upon the banks of the Ohio, the great channel of intercourse between the East and the West, a circumstance which he felt it due to himself, and those whom he represented, to mention, with a view of showing that the vote he should give upon the question could not possibly result from any prospect, on his or their part, of reaping any advantages from the proposed road.

Mr. RAMSEY explained in reply to Mr. CARSON. The observations alluded to by his friend from North Carolina were merely jocular; they occurred in the course of a passing conversation between himself and a gentleman from Tennessee. He was exceedingly sorry that his estimable friend from North Carolina could, by any possibility, construe them otherwise.

Mr. CARSON said that they had not been mentioned to him as such. He was happy, however, to find that it was so, as, indeed, had just been stated to him by the gentleman from Tennessee.

Mr. DEWITT moved to strike out the enacting clause of the bill.

Mr. STORRS, of New York, moved the previous question.

Mr. LETCHER, after a few observations, stated that his district did not approximate to the line which it was proposed to trace for the road in contemplation.

Mr. SCOTT hoped that the gentleman from New York (Mr. STORRS) would withdraw his motion for a moment.

Mr. STORRS declining to do so, the call for the previous question was sustained by a vote of yeas 117, nays not counted.

Mr. J. S. BARBOUR asked for the yeas and nays on the main question; but the motion was not adopted.

The main question, which was upon the engrossment of the bill for a third reading, was then ordered to be put.

Mr. BARRINGER, Mr. ISACKS, and Mr. DWIGHT simultaneously rose to ask for the yeas and nays upon this question. They were ordered.

Mr. P. P. BARBOUR suggested that there were several members probably absent; and as he wished the question to be fully and fairly decided, he moved a call of the House; which was agreed to.

The roll was called, when it appeared that nine or ten members were absent, most of whom, it appeared from explanations given, were detained at their lodgings by indisposition.

The main question being put, was decided in the negative by the following vote:

YEAS.—Messrs. Noyes Barber, Baylor, John Blair, Boon, Brown, Burges, Butman, Cahoon, Clark, Coleman, Condict, Cooper, Coulter, Robert Craig, Crane, Crawford, Creighton, Crockett, Crowninshield, John Davis, Denny, Doddridge, Duncan, Edward Everett, H. Everett, Finch, Ford, Forward, Green, Grennell, Hawkins, Hemphill, Hodges, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, Wm. W. Irvin, Isacks, Jennings, R. M. Johnson, Kendall, Kincaid, Adam King, Leiper, Letcher, Lyon, Magee, Mallary, Martindale, Thomas Maxwell, Lewis Maxwell, McCreery, Mercer, Miller, Mitchell, Norton, Pearce, Pierson, Ramsey, Randolph, Reed, Richardson, Rose, Russel, Scott, Semmes, Shields. Sprigg, Stanberry, Standifer, Stephens, Strong, Sutherland, Swann, Test, John Thomson, Tracy, Vance, Vinton, Washington, Edward D. White, Whittlesey, Wilson, Young—88.

NAYS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, Arnold, Bailey, John S. Barbour, Philip P. Barbour, Barnwell, Barringer, Beekman, Bell, James Blair, Bockee, Borst, Bouldin, Brodhead, Buchanan, Cambreleng, Campbell, Carson, Chandler, Childs, Claiborne, Clay, Coke, Conner, Cowles, Hector Craig, Crocheron, Daniel, Davenport, Warren R. Davis, Deberry, Desha, De Witt, Drayton, Dudley, Dwight, Earll, Ellsworth, George Evans, Findlay, Foster, Fry, Gaither, Gordon, Gorham, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Hubbard, Johns, Cave Johnson, Perkins, King, Lamar, Lea, Lecompte, Lent, Loyall, Lewis, Lumpkin, Martin, McCoy, McDuffie, McIntire, Monell, Muhlenberg, Nuckolls, Overton, Pettis, Polk, Potter, Rencher, Roane, W. B. Shepard, A. H. Shepperd, S. A. Smith, Speight, Ambrose Spencer, Richard Spencer, Sterigere, Henry R. Storrs, William L. Storrs, Swift, Taliaferro, Taylor, Wiley Thompson, Trezvant, Tucker, Varnum, Verplanck, Wayne, Weeks, Camp. P. White, Wickliffe, Wilde, Williams, Wingate, Yancey—105.

So the House decided against the third reading of the bill, and it was, of course, rejected.

Mr. P. P. BARBOUR, thinking (he said) that the House had done enough for glory for one day, moved that it now adjourn.

Mr. ISACKS demanded the yeas and nays on this question, which, being taken, were as follows:

For adjourning,	78
Against it,	111

After, on motion of Mr. VANCE,
The House adjourned.

THURSDAY, April 15.

Frauds in the collection of the Imposts, &c.

On motion of Mr. MALLARY, the several bills which by special order came up for consideration to-day, were postponed; and

The House went into Committee of the Whole on the state of the Union, Mr. MARTIN being called to the chair, and took up the bill reported by the Committee on Manufactures, "in alteration of the several acts laying duties on imports," (the more effectually to enforce the collection of the duties.)

Mr. MALLARY, Chairman of the Committee on Manufactures, who reported the bill, rose to address the committee in explanation and support of the bill.

I will now, (said Mr. M.,) with the permission of the committee, endeavor to assign as briefly as I can those views which have been entertained by the committee who reported the present bill. I am aware that the subject has an important relation to the policy of the country, but, as to the present bill, it does not involve any of the principles or questions which grow out of what has been denominated the tariff policy. Its one object and only purpose is to provide a remedy against an abuse of the laws of the country. I shall not disguise the fact, that the principal object of the bill is intended to enforce the tariff law of 1828; but there is no need, in discussing it, to enter into the policy of that law. It has passed. It has become a law of the land. It has received the sanction of this Government; and the question now is, shall it be carried into execution, or shall a law, thus solemnly and deliberately sanctioned, be suffered to be every day violated with impunity, when the Government which passed it is aware of the violation? This question each gentleman must settle in his own bosom. Because he happens to be opposed in sentiment to the policy of that act, ought he, as a good citizen, as a member of Congress, intrusted by the people with the solemn duties of legislation, to withhold his aid toward carrying the laws of the country into execution? I present this simple inquiry to every candid mind. The tariff of '28 was enacted for the protection of the domestic industry of the Union. Have not those for whose benefit it was passed, a right to come to this House, and ask and demand of us that the faith of the Government shall not be violated, nor its benefits lost, for want of our vigilance and care? Is it not derogatory to the honor of this Government, that it should pass an important law on which the people have relied, as it was their duty to rely, and then the law should be flagrantly violated, and that the people, disappointed and deceived, shall ask in vain that we will enforce our laws. I need not say that the faith of the Government, that its dignity and honor, all forbid such a disgraceful state of things. Would not the world declare it degrading for legislators to reply to such a demand, that all that they have solemnly done means nothing; that when they passed the law, they knew and intended that it should prove a delusion, that it should carry the appearance of doing something for the domestic industry of the country, while the real purpose of those who passed it was to confer no benefit, but to practise a delusion on our fellow-citizens? Sir, there is no man on the floor of this House would dare utter such language to the people of this Union. They would teach him a lesson that he would not readily forget. But we have not yet arrived at such a crisis, and I trust we never shall. I have said that the tariff law is grossly violated; and the interposition of this House is called for, to put a stop to its violation. I acknowledge that it is incumbent on those who make this assertion, to show that it is true. It is for them to prove before this House that its laws are evaded and violated, and that the evasion and violation can be prevented. I place the cause of this bill on that ground; and if I cannot make out such a case as will prove that this bill, or something like this bill, is called for by the state of the country, let it be rejected. On that issue, I am content that the question shall rest. But if I can and shall show that the law is violated, violated grossly, openly, and in the most shameful manner, then I appeal to gentlemen to say whether they can reconcile to their sense of duty, rendered doubly sacred by the high station they here occupy, to vote against a measure whose only object is to prevent the most alarming evils.

I have alleged that one of the most important laws of the country is violated. To prove this, it may be proper to show that both disposition and interest exist to do so, to show who they may be who have that interest and disposition. On this point I will make a few brief observations. They allude, chiefly, to other nations. In this, it is not my intention to examine minutely their domestic policy, but shall refer to views and feelings which exist among them in relation to the domestic policy of this country. If we look to France, we find her pursuing her own way—executing her own policy, undisturbed. She has taken a firm stand for herself, and remains unmoved by the flattery or menaces of any other nation. Her Government and people allow others to do the same. This may be also said of Holland, of Prussia, of Russia. These nations undertake to

judge for themselves of the best means to promote their own interests. They are willing that all others should enjoy the same privilege. They are not engaged in harassing all the world with their doctrines of political economy. But can this be said of England?

All know the course that nation has pursued towards this country, and all other countries, for the last twenty years, when the encouragement of domestic manufactures was discovered. When the United States were her colonies, they furnished her with one of the best markets in the world for her various manufactures; after the war of the revolution, our markets were again thrown open to her trade. This continued until our late restrictions on commerce, and war closed our markets against her. In the mean time, most of the great nations of Europe became determined to rely on their own resources, and sealed their markets against English manufactures. When our late war had terminated, the market of the United States became doubly interesting to England. Her people poured into this country their immense surplus of manufactured goods, which could find no other market in the world. She discovered that our people and the Government showed strong determination to give aid and encouragement to our domestic industry.

She was alarmed, and we were soon overwhelmed with her doctrines of free trade. Our policy is represented by Englishmen as absurd, old-fashioned, and that it would be monstrous folly to continue it. It is denounced in every corner of England, and its violation and evasion openly recommended in every town and city in the kingdom. It seems as if all classes of her people considered they were doing God's service to render ineffectual the protecting laws of the United States, and prostrate all our manufacturing establishments. Under such circumstances, influenced by the most powerful considerations of her mighty interests, we can well comprehend the exertions her people would make to accomplish the ruin of the rival industry of this nation.

I shall now (said Mr. M.) proceed to examine some of the provisions of the existing revenue laws under which the alleged frauds are perpetrated. They have been found, in practice, to be wholly ineffectual. By the fifteenth section of the act of 1823, "the collectors of the revenue shall cause at least one package out of every invoice, and one package at least out of every twenty packages of each invoice of goods, &c., which package or packages he shall have first designated on the invoice to be opened and examined; and if the same be found not to correspond with the invoice thereof, &c., a full inspection of all such goods, &c., as may be included in the same entry, shall be made; and in case such goods, &c., be subject to ad valorem duty, the same shall be appraised, and subjected to the penalties provided in the thirteenth section, in the case of suspected or fraudulent invoices," &c. I am sensible, sir, that this is a dry subject, and somewhat difficult to be understood by those who have not devoted to it their particular attention. I will endeavor to make myself understood as well as the occasion will permit. The collector designates one package of goods out of every invoice at least, and at least one package out of every twenty packages of each invoice. These selected packages are sent to the office of the appraisers, for them to examine and appraise, according to the provisions of the sixteenth section of the act of 1823. The collector, also, if fraud was suspected, might send all the goods to the appraisers contained in the same entry.

The appraisers are bound by law "diligently and faithfully to examine and inspect such goods, &c., as the collector may direct, and truly to report, to their best knowledge and belief, the true value thereof," &c. On their report the duties are computed.

By the thirteenth section, the penalty is prescribed in case goods are invoiced below their true value. It provides that "if the value at which the same shall be so appraised, shall exceed, by twenty-five per centum, the invoice value thereof, then, in addition to the ten or twenty per centum, as the case may be, laid upon correct and regular invoices, according to law, there shall be added fifty per centum on the appraised value," &c. By the tariff of 1828, the difference between the invoice price and appraised value, in order to incur the penalty, was ten per cent. But this seems to have been as inoperative as the difference of twenty-five per cent. in the act of 1823.

It will be observed, and to this I would call the most steady attention of the committee, that on those goods which have not been appraised, no penalty is incurred, if the entry were ever so fraudulent, were the law ever so flagrantly violated. The committee are most respectfully requested to bear this in mind, as, by the practice at the most important custom-house in the United States, it will be shown that the penalty can never reach any goods except the package sent to the appraisers' office. Here arises one of the great causes of complaint. It would be inferred from the law itself, that the collector retained the custody of all the goods contained in the entry until the appraisement was made. But this proves to be a mistake. Neither the collector nor any officer has the control of any except the package which has been sent to the appraisers. The penalty reaches these, and these alone. This will be more fully explained before I close my remarks.

I will now proceed to explain the proceedings at the custom-house in New York. The information I possess is derived from the highest source of respectability, and on which I feel confident the fullest reliance may be placed. Indeed, it may be substantially obtained from numerous American merchants engaged in our European trade. That our laws are evaded, and the manner by which it is done, are well

understood by a vast proportion of the business men of New York. It is a common remark—it is in the mouth of almost every one in that city. But being in possession of full, ample, and accurate information, I will present such as the time and occasion may require for a full understanding of the subject. It will not be required of me to give a history of a vessel from a foreign port, from the time she is first boarded by an officer of the customs, until the goods imported in her are sent into the market. I will give all that is necessary to a full understanding of the subject. After the bond is given in an estimated amount of duties, an order is made to send the designated packages to the appraiser's office, which is done; a permit is then granted for all the goods not ordered for appraisement. Before the appraisement is made, and before any fraud can, consequently, be detected, if any exists, I am well informed, that most or all of the goods contained in the entry and invoice, except those in the public store, are sold, and distributed in the shops throughout the city, or sent in various directions out of the city, and, of course, out of the control of the collector. It should also be observed that a large amount of goods is imported into New York on account of houses in Philadelphia, Baltimore, Boston, Albany, &c., and these are frequently taken directly from the vessel in which they were imported, in vessels destined for those respective places. So far have delays taken place in presenting invoices to the appraisers to have sample packages examined, that instances have occurred of their being left for eight or nine months in the public store before the appraisers were called upon to make the examination. It is also to be observed that the appraisers make no examination until the invoice is presented to them, and that the final adjustment of duties cannot be made until they report to the collector the result of such examination.

To illustrate this subject still further, I will present still further evidence, which I will read from the paper before me. It is derived from a source on which, I assure the committee, the fullest reliance may be placed. It is contained in answers to questions proposed, in order to obtain full and precise information: "If, on examining the sample packages, the goods be found invoiced below their value, can the collector order the other eighteen packages to be sent to the public store, they having been bonded under the permit?" This requires a word of explanation. The present collectors, for a time, sent two packages out of twenty to the appraisers for examination. He was determined to execute the law. He had reason to believe that frauds were perpetrated, and he wished to use all reasonable means to prevent them. He therefore sent two packages out of twenty, instead of one, as had been the practice before. But from the clamor of the importers, and under the advice of the Secretary of the Treasury, he had to return to the old practice.

[Mr. CAMBRELENG here interposed, and inquired on what authority the evidence alluded to by Mr. MALLARY rested.]

Mr. MALLARY replied that the authority was of the most unquestionable respectability.

Mr. DRAYTON made a question of order. The gentleman from Vermont was about to read a document to the House, of the most important character. When the authority is demanded on which it rests, the gentleman pledges himself that it is good and respectable. I do not doubt that such is his opinion, but I have a right to doubt the act; and I inquire of the Chair whether any member of this committee has not a right to demand on what authority a paper rests, which is used for the purpose of having an influence on the action of this committee?

The CHAIRMAN decided that a member, while addressing the committee, might read in his place any paper containing respectful language, and could not be required to give up the authority on which it was founded. It was for the committee to judge of the value of what is disclosed.

Well, (said Mr. M.,) if the coast is clear, I will proceed. I stated that the authority on which the evidence is founded, gentlemen might be assured, was of the highest character. The subject was one to which I have paid the strictest attention, and, for the present, representations, it is presumed, may be sufficient. Now, sir, the answer to the question to which I referred some time ago, will be given:

Answer. They cannot; for the goods are not under his control, and no provision has been made by law for him, in such case, to enter the warehouse of the merchant, and take away the goods to be appraised.

Q. May not the eighteen packages, as soon as they are landed, be sent by the consignee to auction, and sold?

A. They not only may be, but frequently are, put on board of packets or steamboats direct from the ship, and forwarded to the purchaser, owner, or ultimate consignee.

Q. What remedy has the Government other than by adding the penalty of fifty per cent., and that, too, though the goods are invoiced at one-fourth of their value?

A. The Government has no remedy—not even that which you seem to suppose it to have; for the fifty per cent. cannot be added until the goods are examined, appraised, and declared to have been invoiced below their true value.

This answer has reference to the acts of Congress to which I referred in the former part of my remarks.

Q. Does not each package of woollens usually contain goods of different qualities and value, often varying in the invoice price from fifty cents to two dollars and fifty cents or more, in the square yard?

A. They do. Of late, whole packages are frequently invoiced, all at one price per yard.

On this, (said Mr. M.,) he would give a brief

explanation as to the effects. By including in the same invoice different qualities of cloths, and then making an average of the price, the whole package is brought, for instance, under the dollar minimum, and charged with duty as having cost a dollar the square yard. The effect is obvious. By placing in a package a few pieces—five or six, costing not more than fifty-five or sixty cents the square yard, the same package may be completed with goods which cost above one dollar the square yard, and legally chargeable with duty as having cost two dollars and fifty cents, whereas the whole package is charged with duty as having cost one dollar the square yard. The result is, that goods costing fifty-five or sixty cents, and legally chargeable with duty as having cost a dollar, are employed to bring down under the dollar minimum goods that should be charged as having cost two dollars and fifty cents. The evasion is so plain, that further comment is totally unnecessary.

Q. What evidence does the sample package afford of the quality and actual value of the other packages included in the invoice?

A. None at all; nor does it afford any evidence of the quantity beyond this—that if a man is found honest in one transaction, it is a fair presumption of his integrity in others.

Q. Is there good ground to believe that invoices are made out in fraud of law, by some agent of the owner in New York, without the direction or knowledge of the owner himself?

A. No doubt but that fraudulent invoices are made out in New York; they have been detected by the appearance of the writing, paper, &c. Latterly it has become more difficult to detect those cases from the appearance of the invoice, as the paper is sent out with the caption either engraved or written in Europe.

The committee (said Mr. M.) can at once see the operation of the existing laws, which I have presented, both on revenue and manufactures. One package in twenty sent to the office of the appraisers, the officers of the Government have no control over the remainder, but they are scattered to the four winds. They are beyond the reach of Government. The duty is therefore paid on the nineteen packages, according to the invoice price, let the entry be ever so fraudulent. If the appraisers should find that the sample package was invoiced at fifty per cent. below actual cost, that single package alone can be made subject to the penalty. It is clear that this might be wholly sacrificed, and the importer would still gain a profit. But, as I shall explain hereafter, that single package is in no danger, according to the practice of the appraisers. It has seldom or never happened that they have made an appraisement by which any penalty has been incurred. Such, sir, are the facilities which exist under our laws, for the commission of fraud and evasion. The door is as wide open as the warmest advocates of free trade could desire. It would be marvellous if they did not occasionally pass through it.

I shall now proceed to show that the facilities have been pointed out, have been well improved, and describe the means which have been employed. It cannot be expected that a full development of all the evasions can be made. Those concerned are not among the most ready to make disclosures. But I am in possession of some facts which most clearly show that fraud and evasion do exist, and how they are managed. The ship Silas Richards entered New York last spring. It was believed that many of the goods imported in that vessel, as in all others, would be found invoiced with a view to evade the legal duties. A rigid examination was desired and allowed, and suspicions were fully realized. I have before me a letter addressed to the collector of New York, signed by several of the most respectable merchants of that city, which will explain the result of that examination. The names will be given to any member of the committee who may desire to see them. I will read what may be material.

"New York, *9th July*, 1829.

DEAR SIR: We were invited a few days since to examine, at the public store, a quantity of broadcloths, just imported in the ship Silas Richards, and which, we were informed, were invoiced at less than one dollar per square yard. After a careful examination of several bales of said goods, we are decidedly of the opinion, that, although a few pieces in each bale might possibly, under the present extreme depression of trade, have been bought in England at a dollar per square yard, yet that the principal part of them could not have cost less than one dollar twenty-five, to one dollar and fifty cents per square yard. We have been informed that these goods have been admitted to an entry with an addition of but nine per cent. to the invoice, and that this addition will bring but a few pieces of them over the minimum of a dollar per square yard. We are also informed, that, of the two appraisers called in to say what addition, if any, should be made to the invoice, one was an agent of the British manufacturers, who is constantly receiving and selling large quantities of cloth at auction, the other an auctioneer, both of whom have a strong interest in passing goods at the custom-house at less than their value. Now, sir, as we are constantly in the business, and have been for years past, of purchasing in England for cash, on our own account, or of receiving goods to sell on account of our friends, and feeling confident, as we do, that the goods referred to were invoiced at from twenty to fifty per cent. below their value, we cannot refrain from most respectfully inquiring if it be true that but nine per cent. has been added to the invoice, thereby screening the owner from the penalty which would have been incurred had ten per cent. been added, and still leave the consignee to pay a duty of but forty cents per square yard on the principal part of these goods. If it be so, our friends and we must abandon the business of importing cloths, for we are paying a duty of one dollar per square yard on the same quality of cloth, as a large proportion of the goods in question are, while the foreigner is sending

them in and paying but forty cents per square yard. We deem it a duty we owe to our Government, as well as ourselves, most respectfully to protest against such a course of business; a course which has driven many, and will drive every honest man, out of the importing business, and by which Government is defrauded of the revenue.

SAMUEL SWARTWOUT, Esq.,
Collector, &c. New York."

I shall now proceed to give the committee a few instances, out of hundreds I possess, of evasions of our laws, and the manner by which they are accomplished. My authority is derived from most respectable merchants of New York. I shall not use their names on this occasion, in public debate. I see no necessity, at present, to make the designation; yet they will not be withheld, on the application of any gentleman of the committee who desires to see them. I shall read the printed statements which have been placed in my hands. The authenticity, I am confident, cannot be denied. My authority, as I have before stated, is ready to be disclosed.

"A dealer of this city purchased at auction a case of goods, which were sold entitled to debenture. Having made previous purchases of the same kind of goods at private sale, and being thus acquainted with the original cost at the place of manufacture, he could judge, with considerable accuracy, what amount of debenture they would yield to him on their shipment to a foreign port. After making the necessary entries at the custom-house, for the purpose of shipment, he was much surprised to find the amount of debenture so small; and, on a further examination, found that this was owing to the very low price at which the goods had been entered at the custom-house. It appeared strange to him that one foreign importer should be able to buy the same article in the same market thirty to thirty-five per cent. cheaper than another, both having received the same kind of goods by the same vessel. To test the matter, however, as to the actual cost of the goods in question, a pattern was cut from several of the pieces, specifying the number and length, the vessel by which they had been received, &c., &c. These patterns were sent to Europe, to the place where the goods were made and purchased, and very particular directions were given to ascertain the actual cost paid by the agent of the importer. The information returned was of the most positive and unquestionable character. It stated, among several particulars of minor consideration, the time when the goods were bought, by whom, and of whom they were bought, and the exact net price paid for them. The result was (as anticipated by judges) that they actually cost the importer twenty-five to thirty per cent. more than he had paid duty on at the custom-house."

"A merchant of this city happened to go into the store of an importer, who does the bulk of his business by auction, and seeing a package of desirable goods, inquired the price of it. The invoice was exhibited, through a mistake of the importer. It happened to be that by which the goods had been entered at the custom-house, and by which they had paid the duty. It was at least thirty-five per cent. less than many other importers paid for the same description of goods at the same time. As a proof of this, and to try whether the cost exhibited was fictitious, the dealer offered to the importer twenty-five per cent. profit on the cost exhibited. This was refused, with his assurance that at that rate he should lose money, which he could not afford to do. Had the custom-house invoice been the real cost, would he have refused this enormous profit? This act speaks for itself, and does not need further elucidation."

"It is a common custom, and one well understood by merchants, that many foreign importers, resident in this country, and who do nearly all their business by auction, are in the constant habit of receiving two invoices of each parcel of goods. One of these is made out at a very low rate, and is used to enter the goods. The other contains the actual cost. A foreign importer, by accident, sold a package of goods at a certain advance on the cost, and this cost unfortunately happened to be that by which they had been entered and the duties paid. Shortly after making the sale, he discovered that he had sold the goods at an advance on the fictitious cost, or, in other words, on the custom-house invoice. He therefore goes to the buyer, and informs him that he had made this mistake, and insists that he should make up the difference between the actual and false cost. The buyer who had got a good bargain, and was much surprised at the novelty of this request, refused to allow any thing, and informed him that, if he persisted in this claim, he would go to the collector of the customs and expose him. The importer was prudent enough to pocket the affront, and went about his business."

"The foreign importers of woollen goods drive an enormous trade by means of auctions. Indeed, they scarcely sell any thing at private sale. When they do so, their invoices are never shown. In a confidential conversation (as regards names) with a man of integrity, dependent on a clerk's salary for support, I obtained some insight into the manner in which these woollen dealers manage their frauds. The common custom amongst this class of importers is, to enter goods on an invoice made out expressly for this purpose, and which is always much less than the actual cost. He assured me that he never made out a custom-house entry but from an invoice of this description, during the time that he had been so employed. These invoices he believes to be thirty-three and a third per cent. at least under the real cost at the place of manufacture.

"As a proof of this, and most conclusively proving that goods are entered at the custom-house on spurious invoices, the following fact is given:

"A piece of broadcloth, costing four or five shillings per yard, as entered at the custom-house, and paying a duty of thirty per cent. under the old tariff, would frequently be bought in at auction, on account of the importer and owner, at two dollars and a quarter to two dollars and a half per yard! Would not any person in his senses gladly sell at this price, if the piece of cloth did not actually cost him more than the price at which it had passed the custom-house, and on which the duty was paid? This fact does not need further explanation."

"Messrs. ——, merchants, in Pearl street, called on a commission merchant here to buy bombasines. He offered to sell them at cost and charges, which he supposed would be sixty-five per cent. advance on the sterling cost. The goods were shown, and the sterling invoice exhibited by the salesman.

The merchants, seeing that the article was charged low, offered to buy three cases, at sixty per cent. advance. This offer was accepted, and the goods were to be delivered. The buyers asked and obtained the privilege of taking the balance of the invoice, (about nine cases,) if, on examination of the article at their own store, their impressions of the goods being low charged should be confirmed. About an hour after the purchase was made, the salesman waited on the buyers, to say that the goods could not be delivered, as he had made a mistake in selling them by the wrong invoice. The buyers replied that they would take the goods by the prices at which they had been entered at the custom-house; but the commission merchant refused this, saying that his instructions were to sell them at an advance upon the prices put down on what had the form of an invoice, but was called a 'statement' of twelve cases of bombasines, consigned to ——, &c., &c., in which the prices were charged one hundred per cent. above the invoice entered at the custom-house; that is, goods charged in the custom-house invoice at sixty shillings per piece, were put down in the invoice called a 'statement,' at one hundred and twenty shillings.

"When the purchasers remonstrated, upon his refusal to deliver the three cases already bought, he replied that it was ungenerous and unjust to desire a confirmation of a sale made by mistake; and, to convince them that the purchase would be a good one at the highest prices, stated that a retailer, who does the largest business in this city, and is presumed to be a good judge, had offered to buy one case at sixty per cent. advance on the 'statement' prices, but he wanted six months' credit, which was too long to be given on a single case."

I will state another case, for which I have the most unquestionable authority. An Englishman, who has resided in New York for a number of years, and was a very large receiver of woollen goods, principally cloths, all of which were sold at auction, had, some time last spring, a serious misunderstanding between himself and his chief clerk, which resulted in some disclosures being made by the clerk to the custom-house, and he fled to Canada.

In the second, third, and fourth quarters of the year 1829, there were imported into New York about five thousand dollars' worth of woollens above the four dollars' minimum. I have reason to believe that one person alone bought and sold a greater amount during the same time. Again, sir, I here exhibit samples of broadcloths, which (and I have the best authority for stating it) passed the custom-house in New York under the dollar minimum, and sold in the Boston market at five dollars the running yard, or three dollars and thirty-four cents the square yard. I leave every person to judge if such goods were fairly valued in the invoice, and paid the legal duty. Again: I shall now refer to more evidence. I offer it to show what is the impression that prevails amongst the most intelligent citizens of New York on this subject. I will read an extract from a paper placed in our hands, to which is attached a responsible name—Jeremus Johnson, formerly a member of this House. He, as the chairman of a most respectable and intelligent body of the citizens of New York, and by them sanctioned, made the following public declaration:

"The revenue is largely and systematically defrauded by means of the concealment afforded by auctions. The proofs of this alarming truth are so abundant, that it has long been a settled point among the intelligent merchants. The Committee of Ways and Means, from the same conviction, have reported the present bill, which does not tax public sales, but only restores those responsibilities and usages which formed the common practice of importers in those prosperous times when smuggling was unknown—before auctions had destroyed regular trade. If these usages had never been interrupted, many millions would have been saved to the Treasury of the United States. Formerly, smuggling, like other great crimes, was of rare occurrence, and perpetrated under accidental temptations. Now, by means of auctions, it has become a system, matured in all its parts, with a mechanism as carefully adapted to its purposes, as in the most regular and lawful occupation.

"The officers of the customs in this city, whose experience has been on the largest scale, and who have devoted much attention to this subject, concur in the opinions and facts which we have now stated."

I shall remark on auctions hereafter.

I now appeal to every gentleman in the least acquainted with public opinion in New York. Is it not generally understood that our laws are evaded? Is it not the prevailing impression of the community that the revenue is defrauded—that the laws of the country are violated, and this in the most flagrant manner?

Again, sir: the President in his Message clearly intimates that our revenue laws are evaded. I know that he is anxious that provision should be made to carry them into execution. From the Secretary of the Treasury we are informed that the laws are evaded, and that the attention of the Government is required. The collector of the port of New York, I know, is perfectly satisfied that continued violations of our laws take place. As a faithful, vigilant, indefatigable officer, he has no superior under the Government. He fearlessly executes the laws to the extent of his power. Give me such men, whatever political power controls the affairs of the nation. But his authority is deficient. He has not the means.

We have now seen how affairs are conducted at the custom-house, how invoices are made; let us notice what takes place in the appraisers' office. The office of appraiser was created by the act of 1818, for the purpose of aiding the collectors of the revenue in the prevention of frauds. The office was provided for by the act of 1823, and has continued to the present time. I have already stated the proportion of ad valorem goods sent by the collector to their charge, that is—one package out of every invoice at least, and, if more are contained in the invoice, at least one package in twenty. The

appraisers, as has been stated, require the invoice to be produced before they decide on the value. I am informed by one of the appraisers, that the invoice is used as evidence of the value of the goods which it contains. It is well known that, in common practice, it is the only standard of valuation. Not more than seven or nine thousand dollars of woollen goods have been found by the appraisers undervalued in the invoice for the year past, although millions have passed through the custom-house. A part, if not all, of the under-valuations were discovered by an open examination of the goods imported in the ship Silas Richards, to which I have before referred. It may therefore be considered as the general practice of the appraisers to take the invoice value as the real value on which duties are to be assessed. I have already shown how invoices for the custom-house are prepared, and every one can judge how much credit should be given them. There is too much intelligence in this committee to require any further explanation. Under the existing state of things, what is the security for the revenue? What for the protection intended to be given to the domestic industry of the country? There is no check, no barrier, to the unprincipled adventurer. The door is thrown wide open. A mammoth might pass without touching his sides. It has already been decided by a large majority in the House, that Senators and members of Congress cannot be trusted to compute their own mileage—that we cannot trust the presiding officers of the House of Representatives with the appointment of a draughtsman. If so, what are we to think of a Liverpool invoice?

I will now call the attention of the committee to another important point. It is as to the number of the regular American importing merchants engaged in the woollen trade as their principal business. The story is a short one. It is the result of an anxious inquiry. Previous to the war, the woollen trade was almost exclusively in the hands of our own merchants. The number was about one hundred and sixty in Boston, New York, Philadelphia, and Baltimore. Of the same class of importers, at this time, about twenty. As I am informed by a most intelligent merchant, there were in New York, at the period to which I have alluded, forty-three, whom he recollects; now only five. One of the appraisers recently informed me that there were, at least, six! Such is the mysterious change of trade in the great emporium. These remarks are in a great degree applicable to all American merchants engaged in other branches of European trade. If they have not yet suffered as much, they clearly see before them the secret, silent, fatal approach of annihilation. The strong arm of Government must be extended to their rescue.

Again, sir: What is the condition of the American merchant? No better illustration can be given, than what is contained in their repeated memorials to Congress. To one at least I will refer. It is signed by thousands of our fellow-citizens of New York. It now remains on the files of this House. It was presented in 1820, when the evils of which they complain were far less withering to commercial enterprise than at the present day. I will read the conclusion:

"Your memorialists will no longer detain your honorable bodies with a detail of the evils flowing from public sales—from which we can never be relieved, until our merchants share equally in our importations, until every trader is held accountable for the quality as well as the quantity of his goods, and integrity in dealing is properly rewarded by being considered a sufficient guaranty; that, under a sound, equal, and permanent system, your memorialists most sincerely believe that fabrics, from whatever source they may come, will be improved, corruption in trade will be diminished, the consumers throughout the land will, on an average, buy cheaper, the farmer will be better paid for his produce, bankruptcies will be less frequent, and our commercial character consequently restored."

This is language common to all the memorials on the great and interesting subject of auctions. They all speak of corruption in trade, and suggest means to produce a restoration of commercial character. All know, when American trade was conducted by American merchants, their characters stood before the world untarnished by the suspicion of corruption. At home, and abroad, it commanded the most perfect confidence and respect. Prices were steady, profits uniform, deception unknown. In the present confusion of business, in the untiring efforts of foreigners to supplant our own merchants, and to drive them out of employment in our own country, it is not surprising that commercial character should have suffered in public estimation. The present state of trade must produce this effect, however pure may be individual integrity and honor. I am well aware that the alarming evils which exist, are supposed, by the mercantile community generally, to be produced by the auction system. I have no doubt but it has been one of the principal causes of ruin and desolation to a high and elevated class of our merchants. It keeps trade in perpetual change. It invites to the most ruinous speculation. It affords the most ready facilities for violating our revenue laws; and, above all, it tends to destroy all confidence in commercial reputation. But suppose that sales at auction are abolished, that honest and honorable merchants take their former station. Under the existing law, and the practice of the custom-house, what could they do? Could they measure consciences with the maker of a Liverpool invoice? Must they not yield to circumstances, or again be ruined? Something else must be done, or the foreign adventurer will command our trade. The subject of auctions is in able hands. It is a great cause—it is a good cause. I have no doubt but it will be well sustained by the honorable gentlemen who have it in charge.

Now, sir, we will consider how the woollen trade is carried on. With this subject all are familiar. In New York, as well as in most of our cities, woollen goods are generally sold on foreign account. As near as I can ascertain, four-fifths; many suppose nine-tenths. Part is consigned to American merchants; a great proportion is in the care of foreign agents. They come here to superintend the sale—have no interest in the country—take the place of the American merchant—many, it is said, live in garrets, make out invoices for the custom-house—publish essays on free trade—gather up the spoils and profits of business—abuse the Government, and—go home. After all, they are not so much to blame, if we continue to nod assent. But, under this state of things, we all see that our own merchants are compelled to perform a miserable part. They have to wait the motion of their masters at the auction room. They are active, intelligent, enterprising; why are they driven from trade? They cannot, will not, dare not, resort to means which those who reside abroad are ready and willing to use.

Now, sir, shall we suffer such a state of things as has and will continue, unless checked, to produce such consequences? Is it sound policy to allow transient, wandering foreigners to usurp that employment which belongs to the American merchant? Is it patriotic? Is it consistent with just national feelings to permit the great commercial interests of this country to be controlled by foreigners? When I allude to foreigners, I mean those whose home is abroad; whose allegiance still chains them to another country. In short, sir, I wish to see American merchants transacting American business. I hope to see the day when this will be accomplished; when our merchants will occupy their former standing in the estimation of this country and the world. We have of late heard much of the transcendent importance of navigation—of ship-building. I respect its value as much as any one should. But I had rather see all we receive from abroad introduced by foreign navigation, than see the internal trade of the country conducted by foreign agents. I had rather have for the country, a good, substantial, upright, Pearl street merchant, than the best Liverpool packet that ever sailed. We can have both.

It is constantly alleged by many, that the evasions of our revenue laws are caused by the high protecting duties imposed by the tariffs of 1824 and 1828. To this subject I would call the attention of the committee. The charge is erroneous. Evasions of our revenue laws existed to a greater extent previous to the passage of those acts. Under the mild and moderate tariff of 1816—a tariff lower than has been proposed by the warmest opposer of the protecting system during the present session, the most flagrant evasions were known to exist. They cannot be better explained, than by a reference to the report of Mr. Crawford in 1818, while Secretary of the Treasury.

He says, after alluding to the course of trade, "there is abundant reason to believe that it is customary, in importations of this nature, to send with the merchandise an invoice considerably below the actual cost, by which the entry is made and the duties secured. Another invoice, at or above the actual cost, is forwarded to a different person, with instructions to take and sell the goods by such invoice." This practice, as I have fully shown, still continues; and if it has increased, it arises only from improved skill and experience. Constant practice makes the trade more perfect. If the tariff of 1816 had remained unchanged, foreigners would have gained the advantages they now possess. We also see in all the memorials against auctions from commercial cities, as early as 1820, the most frightful frauds on the revenue are described. It makes little or no difference whether the duties are twenty or fifty per cent.; the same relative advantages exist in favor of the foreigner. That is, he dares verify an invoice in Liverpool, that an honest American merchant dares not do in New York. If the invoice is made out in this country by an agent, he can swear as to his belief of the cost abroad—the American merchant, who purchases, does know the actual cost, and honesty will require him to declare truly—if he does not possess honesty, danger will compel him. He is within the reach of our own laws where perjury is sometimes noticed. But you cannot reach the person who swears falsely to an invoice in a foreign country. There he is perfectly safe. The truth is, sir, that the foreign valuation is the rotten part of our system. But so it is, and we must make the best of it.

Now, sir, I will allude to the effects which fraud and evasion must have had on the revenue. The amount of ad valorem goods imported into the port of New York, for each of the last ten years, at the invoice price, will not vary much from twenty-five millions of dollars; the whole amount, two hundred and fifty millions of dollars. The average rate of duty may be estimated at twenty-five per cent. The amount of duty for ten years would be sixty-two million five hundred thousand dollars. We have already seen how goods are valued in the invoice—the low price at which they pass the custom-house. The average cannot be more than two-thirds of the real cost or value in the foreign market. Goods which cost abroad three hundred and seventy-five millions of dollars, have been invoiced at one-third less than the cost. This would amount to the two hundred and fifty millions, as I have stated, on which duties have been paid. Duties should have been paid on the three hundred and seventy-five millions of dollars, which would have produced ninety-three million seven hundred and fifty thousand dollars, instead of sixty-two million five hundred thousand dollars, a difference of thirty-one million two hundred

and fifty thousand dollars. This in the port of New York alone. I am ready to admit, that if the laws had been fully enforced, the importation of many articles would have diminished, yet the Treasury would have gained millions, and the domestic industry of the nation would have been secured. I will pass to another topic—smuggling.

When any charge is made that our laws are evaded through the custom-house, the cry of smuggling is raised from a certain quarter. If a foreign agent presents his well-made invoice —good-looking invoice—to the collector, and the collector has some doubts whether all is right, you might well suppose he would say, sir, can you think I would do any thing wrong? Will I cheat, sir? Smuggling, you may depend, sir, is carried on only on the northern frontier. There is the place to look for rogues; I am honest. Mischief is on the northern frontiers; that is the place. If he presents an invoice that would make the spirit of mischief blush, he declares that he is honest; smuggling is only found on the northern frontier. So his invoice passes. Newspapers opposed, all opposed to the protecting policy, testify that no evasions take place, except on the northern frontier; everywhere else, all perfectly honest! This is a capital way to escape.

Now, (said Mr. M.,) I have taken much pains to learn the truth of this matter. I have resorted to every source of information; to the officers of the customs, to our merchants, to all who are best acquainted with the course of the Canada trade. The charge is wholly incorrect, that illicit trade in that quarter makes any impression on the revenue or market. There may be along the lines a little petty dealing, that would always exist whether duties were high or low. Efforts have been made on a large scale. They have been, and will be, unsuccessful. The reason is obvious. The great marts for the northern merchants are New York and Boston. When they go into market, they obtain a full assortment for the season. A few pieces of woollen goods are all that each merchant may want. There can be no motive for smuggling. It certainly can be no great object to the foreigner to smuggle cloths to a small extent. If to a large amount, of course he must send his goods to the seaboard market. His goods are exposed to the weather, to damage, to expense and seizure. Besides, in the country any movement out of the usual way is observed. Curiosity is excited. If mischief is on foot, it will be discovered. Again, sir, the people in that part of the Union are friendly to our domestic policy. The farmer and manufacturer are awake. Here is a great security. You might as well smuggle straw as broad cloths. In great ports, like New York, where all is bustle and confusion, illicit trade is comparatively safe. You might smuggle a ship load there more easily than you could send a wagon load from Canada to the same place. After the passage of the tariff in 1828, in England smuggling was practised on a large scale across the lines. The attention of Government was called to that subject. Among other precautions, a confidential and most intelligent agent was appointed to observe the operations of trade on the northern frontier. From him, sir, I have a statement, which fully and amply sustains what I have mentioned before. He has ascertained that our exports to the Canada market, for the year 1829, amounted to two million forty-four thousand dollars. That near two millions of this have been paid for in specie, or drafts, in favor of our exporters, on our seaboard cities, mostly on New York. If required, a full detail could be given. I well recollect, on a former occasion, the same charge was made. It was said on this floor that we exported annually about two millions to Canada, we paid duties on a small amount of importations, and smuggled the balance in returns. It so happened, that, when the charge was made, I had in my possession evidence that one house alone in New York had, annually for three years, accepted and paid drafts to the amount of one million two hundred and fifty thousand dollars, the proceeds of the Canada trade. Then, I hope the fears of smugglers on the frontiers may be quieted, for the present at least.

I will now advert to another point. The people in the interior of the country have never been aware of the mischiefs that have been practised at the custom-house. The Government has not been fully apprised of them until lately. Darkness had enveloped them. Strong reasons exist. Let us look at them plainly. Twenty-five millions a year of ad valorem goods imported into New York; in the market, worth thirty-five to forty millions; three-fourths, perhaps nine-tenths, owned by foreigners, hostile, I repeat, to our policy, intent on gain, and using every exertion to save the last farthing. Here is a cordon around the custom-house. If any power on earth can overawe a Department of the Government, here it is. You can see it, if you have the least knowledge of human nature. If its officers perform their duty, they are assailed; they are represented as harsh and tyrannical. I will give an instance. The present collector of New York—I wish all officers of the Government were as faithful—knowing that goods were dispersed in all directions before the appraisers had made their report, on the sample package, required of the importer the following simple obligation:

"I, ———, do promise that all or any part of the merchandise mentioned in the annexed entry shall, at the request of the collector, be immediately delivered up for examination by the public appraisers."

The object of this was, to have imported goods, in some degree, under his control, in case fraud should be discovered in the sample package. This made such uproar that he was compelled to abandon it. This was too much for free trade to endure. Foreigners declared

that the collector was unfit for the office, he gave such unnecessary trouble. Under existing laws and established practice, Liverpool has repealed our revenue laws in New York. Vigilant and honest officers cannot prevent it. They have not the force, the aid that is required. Government alone can afford a remedy. The bill under consideration is intended to accomplish a part at least. I hope something may be done. The interior of the country have a deep interest in this matter. The custom-house belongs to the nation. It belongs to Ohio, to Kentucky, as much as the city of New York. We have the power to correct abuses. Let it be used.

I will now proceed to consider the provisions of the bill before the committee. It is confined to woollens. The committee did not wish to propose any measures, except when required by clear and palpable necessity. One of the great objects of the tariff of 1828 was to protect the woollen manufacturer. At the time, it was feared and believed by many that the dollar minimum would destroy all intended benefit. As it passed this House, the duty was specific. In the Senate, the duty was changed to ad valorem. Yet, by a most erroneous decision of Mr. Secretary Rush, the ad valorem principle was not allowed to apply. The ten per cent. in addition to invoice cost was disallowed, which most materially diminished the intended protection. This affected the fabrics composed of the raw material which is produced by our farmers in the greatest abundance. They have been made to suffer, even more than the manufacturer. All that is now asked, all that is humbly required, is to give really, honestly, in good faith, what the Government has promised, pledged itself to give. That is all.

The first section provides for having a copy of the invoice delivered to the collector. This is indispensable for the correct estimate of duties, as well as a guard against frauds. The value of this is admitted by the custom-house and Treasury Department.

The second section requires that woollen goods should be placed in the public store. The object is apparent. It is for the purpose of giving power to the officers of the Government to keep them safe until the legal duties are ascertained. Our revenue laws now require it, in my opinion. The practice is otherwise, as I have shown. There will be no difficulty; the delay trifling. It will operate equally; no advantage will be given in the market by any. The rights of the Government will be safe.

The third section provides for the examination of the goods by the appraisers. It requires that they should be marked with the evidence of the minimum class to which they belong, and on which duties should be paid. In this there will be no difficulty. Every cask of wine and spirits is examined and marked. Every chest and box of tea is examined, whether it contains five pounds, or two hundred. Every bar of iron is weighed; every bushel of salt measured. Every piece of cloth can as well be examined, valued, and marked. It can be done with the greatest expedition. It will be a great security to the honest merchant, and to purchasers. Each will be able to compare qualities and prices. Fraud will be exposed to public observation—the surest check. I will pass on as rapidly as possible; will give more explicit explanation when desired. As to measuring goods, no more is required, perhaps not as much as is required by the law of 1828. The next provision of importance is that which declares that the appraisement shall be made without the invoice. Their value, their correctness, I have described. If appraisers understand their duty, a fair valuation can be made without the invoice; if they do not, they should be discharged. If the duty cannot be performed, the office should be abolished. With skill, attention, integrity, the Government would be safe; without these qualifications, their employment would be useless.

The greatest objections I have heard urged against the bill have arisen from the penalties to be incurred in cases of appraisement above the invoice price. I do not think they are indispensable, and shall, at a proper time, submit a motion to strike them out. My desire is to remove all the objections that may exist, provided the main object is accomplished.

The fourth section contains but one alteration of the existing law, that I consider material. By the revenue laws now in force, when the importer, his agent, or consignee is dissatisfied with an appraisement, he may require a re-appraisement. In such cases he may "employ two respectable resident merchants," who, with the appraisers, shall re-examine and re-appraise the goods in question. The consequence is obvious. The importer will employ the person most favorable to his interest. Now, sir, the change proposed by the bill is, that the collector shall appoint the merchants to be associated with the appraisers in cases of re-appraisement. The collector is bound to do justice to all—to the Government as well as to individuals. He acts impartially. It is known, it is expected, that, when the importer employs persons to join the appraisers, he will select those the most partial to his interests. At any rate, he has the power to do so; human nature prompts it; it is not forbidden by the law or the doctrines of free trade.

The fifth section is but a consequence of the one preceding.

The sixth section provides penalties for counterfeiting and changing marks. If goods are marked, as is provided in the third section, this provision is necessary.

The seventh section is important. It provides that the Secretary of the Treasury shall assign one of the appraisers, now appointed, to take charge of the goods deposited in the public store, according to the third section of this bill; and that the Secretary shall appoint assistants

to the appraisers, for the purpose of securing a full and faithful execution of the laws. It is considered by all, it is well known, that more aid is required at the custom-house in New York. Considering the immense business done in that port, the appraising department is totally unable to perform the duties by law required to be performed. Further force must be allowed, or the laws, even as they at present exist, cannot be executed. The Secretary of the Treasury has earnestly recommended this in his report. The collector of New York considers it indispensably necessary. The Committee on Manufactures were fully convinced that further assistance should be given. Since the bill was reported, as an individual member, I have become satisfied a more efficient arrangement may be made, than that contained in the bill. It is, that the President of the United States, by the consent of the Senate, shall appoint an additional appraiser for the port of New York; that the Secretary of the Treasury shall distribute among the appraisers the classes of business to be by each performed. One can be assigned to the examination and appraisement of woollen goods; one to hardware and other articles; one to silks, linens; indeed, the distribution may be made in such way as that there may be a full superintendence over all ad valorem goods. This can be arranged as the occasion may require. Also, that the Secretary of the Treasury shall appoint such number of assistant appraisers as the public service may demand. It is my intention to submit, on a proper occasion, an amendment for this purpose. I am confident it is the better plan, and will better meet the views of the Treasury Department as contained in the report on this subject, and more effectually accomplish the object which all must desire.

I will now explain the ninth section of the bill. By the eleventh section of the act of 1828, a part owner residing in the United States may verify the invoice. Let his interest be ever so small, he possesses this right. It may be created for this purpose. The great object of the foreign resident is to pass his goods through the custom-house as low as possible. He sends his goods to a part owner, with such representations as to cost as he pleases, with a blank invoice. The part owner in this country very honestly swears to his belief of the value in the foreign market. That value may be as low as the standard of his conscience, very low, as low as will pass the custom-house. Very low. Now, if invoices are worth any thing—and it seems to be admitted that when made by foreigners they are not worth much—the buying partner should do the swearing, and not the selling partner. The buyer may be supposed to know the price better than the seller.

The remainder of the bill relates to the disposition of the penalties, and the authority of the Secretary of the Treasury to provide regulations for the full execution of the act. They are the usual provisions in our revenue laws.

Now, sir, I hasten to a conclusion. I have stated that our revenue and protecting laws are evaded. I have given the evidence. The measure proposed contains no new principle. The object is to enforce what the Government has decreed. I am not tenacious of form. What the Government has promised, let it be fulfilled. If a better mode can be devised, it shall have my hearty concurrence. The question I propose is, shall the laws of the country be executed? Every gentleman of this committee will consult his own heart. Let it come home to his own bosom. Let his honest conscience give an answer.

MONDAY, April 19.

Death of Alexander Smyth.

The journal of Friday having been read,

Mr. MCCOY, of Virginia, rose, and announced to the House the decease, on Saturday last, of his colleague, (Mr. ALEXANDER SMYTH.) Mr. McC. said, the character of the deceased was too well known to need any eulogy from him, and he would content himself with offering the following resolution:

Resolved, That a committee be appointed to take order for superintending the funeral of ALEXANDER SMYTH, deceased, late a member of this House from the State of Virginia.

The resolution was unanimously adopted, and Messrs. MCCOY, ROANE, CLAIBORNE, ALEXANDER, TALIAFERRO, GORDON, and CRAIG were appointed the committee.

On motion of Mr. MCCOY, it was also

Resolved, unanimously, That the members of this House will testify their respect for the memory of ALEXANDER SMYTH, by wearing crape on the left arm for the remainder of the present session.

Resolved, unanimously, That the members of this House will attend the funeral of the late ALEXANDER SMYTH, this day at twelve o'clock.

WEDNESDAY, April 21.

Impeachment of Judge Peck—Report of the Judiciary Committee.

Mr. BUCHANAN, chairman of the Committee on the Judiciary, rose, and addressed the House as follows: If, said he, the Committee of the Whole on the state of the Union had been left to take up this subject simply on the report of the Judiciary Committee, I should have had, comparatively, little trouble. My task would, in that case, have been only to refer, on the one hand, to the language of the report recommending the impeachment, and, on the other, to the testimony, to show that it was sufficient to support the charge. But Judge Peck having seen fit to introduce an extensive and elaborate defence, it has become my duty to investigate the whole case more at large.

I need not, I am sure, bespeak the candid

attention of the committee on the present occasion, as the dearest rights of the people of our country, on the one side, and, on the other, those of a citizen occupying a high and responsible judicial office, are deeply concerned in the investigation. Besides, we are not now called upon to decide in a purely ex parte case, as the accused has cross-examined the witnesses before the Judiciary Committee, and has presented a defence embracing a very elaborate argument, both on the law and on the fact. The consequence of this interposition of the Judge, should it not influence the committee to vote against his impeachment, must be to cause a contrary decision to bear more heavily against himself. Thus situated, it becomes us all to look well to the testimony.

What is the offence charged? It is illegal, arbitrary, and oppressive conduct, in his office as a judge, towards a citizen of the United States, by imprisoning his person, and depriving him, for the space of eighteen months, of the exercise of his profession. The Committee on the Judiciary, following former precedents, did not think it proper to reduce the charge to any specific form in their report to the House; but its true character is what I have just stated.

I shall now proceed to inquire whether this charge is sustained by the testimony. This is a question which each gentleman must seriously consider for himself. I shall endeavor to present the material facts in as clear and distinct a manner as I am able.

Intention, in every criminal charge, is necessary to constitute guilt. Even if the act be plainly illegal, the committee must still judge whether it proceeded from improper feelings, and sprung from a bad motive. Poor frail man is left to form this judgment from external conduct. He cannot search the heart, nor penetrate the springs of human action. Still, however, he has these general principles to guide his judgment, derived from the highest authority: "out of the abundance of the heart the mouth speaketh;" and "the tree is known by its fruit." If, in addition to the illegality of the action, the committee shall be of opinion that the testimony manifests the existence of an evil intention, the case will then be fully made out. I trust I am one of the last men in this House, or in this country, who would seek, in the remotest manner, to interfere with the constitutional independence of the judiciary. I know that it is the great bulwark of our rights and liberties; and this House will never use its power of impeachment as a means of infringing upon an institution so sacred. But when an individual, elevated to the high and responsible rank of a judge, forgetting what he owes to his own dignity, to his country, and to the liberties of the people, shall, by arbitrary and oppressive conduct, prostrate the rights of a citizen of this republic, it is fit and proper that he should be held up as an example, and be made a victim to the offended majesty of the laws. It is my deliberate conviction that such has been the conduct of Judge Peck; and I may add, that similar sentiments were held by every member of the Judiciary Committee.

It was with the utmost reluctance that we found ourselves compelled to arrive at such a conclusion, and to present such a report to the House. Throughout all the stages of the examination, we endeavored to divest ourselves of every thing like feeling, and to be influenced solely by a regard to the demands of duty. I shall endeavor to do so, as far as possible, upon the present occasion, and shall now proceed to state such facts as the evidence before the committee has clearly established. Let me briefly refer to the origin of this subject.

On the 26th May, 1824, Congress passed an act enabling claimants of land in Missouri, under French and Spanish grants made before Louisiana passed into the possession of the United States, to apply to the district court of Missouri for their confirmation. Mr. Peck then was, and still is, the sole judge of that court. On the 22d August, 1824, Antony Soulard, who had been the surveyor general of Upper Louisiana, before the cession, presented for confirmation a claim to 10,000 arpents of land, the consideration for which consisted, not in money, but in his services, as surveyor general. The claim was peculiar in its character, and was founded on special circumstances belonging to itself alone. The quantity of land was greater than that of the concessions usually granted by the Spanish Government in Louisiana. Indeed, the entire case was one *sui generis:* but I shall not fatigue the committee by entering into its peculiarities. It was argued at a great length by the district attorney, (Mr. Bates,) assisted by Mr. Lucas, on the part of the United States; and by Luke E. Lawless, the present complainant, and Colonel Strother, on behalf of Soulard. On the 25th December, 1825, the Judge pronounced his final decree, and gave judgment against the petitioner. Whereupon, an appeal was immediately taken to the Supreme Court of the United States—a circumstance which will be found to have a material bearing on the case now before the committee. This decree was drawn out at length, and places his decision upon grounds, where the Judge ought to have suffered it to remain. This concession, according to the decree, was in opposition to the general principles upon which the Spanish authorities had granted land in Upper Louisiana, and therefore could not have been confirmed, even if the sovereignty of the country had not been transferred to the United States. Here the Judge ought to have permitted the matter to rest until after the decision of the Supreme Court of the United States; and if he had, we should never have heard of this impeachment.

It ought to be the first object of every judge to do strict and impartial justice; and his second, to satisfy the public that strict and impartial justice has been done. Judge Peck knew that a great number of these land claims,

under various circumstances, derived from Spanish concessions, must come before him for decision, and that many of them were then actually pending in his court. It was natural to suppose that the population of the country thus situated would take a deep interest in all his decisions. They had a right to expect a cool and deliberate investigation of each class of these claims, and that the Judge would approach them with candor, and hold the scales of justice even between all parties. A judge, under such circumstances, should be peculiarly cautious and prudent, and, above all, should never prejudge any case. He ought to wait until each question is fairly brought before him. But what was the course of Judge Peck? Although he had delivered no written opinion in the case of Soulard, but had confined himself to an oral explanation of the reasons of his decree, yet, in March, 1826, more than three months after final judgment had been rendered, he carried a written opinion to the editor of the Missouri Republican at St. Louis, for publication. This opinion thus, for the first time, came before the public through a political newspaper. Let it be remembered that this is not my assertion; it is that of the Judge himself, who, in his defence, uses this very phrase, when speaking of that newspaper. Now, I ask, was this not an act calculated to arouse the feelings of all that numerous class of persons in Missouri who are interested in claims of this description? What must have been their feelings, when they saw an opinion in which not only the case of Soulard, but all possible cases that could arise under these Spanish grants, were settled in anticipation against the claimants? The Judge at once deprived them of all hope. Notwithstanding his opinion decides that the Spanish ordinance of 1754 never was in force in Upper Louisiana, he proceeds to examine minutely the terms of that very ordinance, and decides against every possible claim which could have arisen under it, had it been extended to that province. In short, he tears up by the roots the claims of all persons under grants or concessions made by the sub-delegate or lieutenant governor of Upper Louisiana. Now, sir, considering the existing excitement in that country on the subject, and the strong and general feeling in favor of these claims which prevails there, what must you think of such conduct? Three months after the decision of the cause, and after it had been removed from his court by appeal to the Supreme Court of the United States, he makes his appearance in this manner, in a political newspaper, and, to repeat a phrase for which I have been no little censured, he casts a fireband into the community.

Mr. Lawless was, at this time, counsel for many of the claimants; and what was his conduct? Why, sir, he pursues a course with which I feel I never should have been content, under similar circumstances. He writes an article, merely suggesting the errors of fact and doctrine which he believed were contained in the opinion of the Judge; an article which I must say, considering the character of this opinion, was humble, tame, and submissive. Even the Judge himself seems to have been conscious of some impropriety in his own conduct. Hear what he says in the last paragraph of his opinion:

"The title to more than a million, perhaps millions, of acres of land was supposed to depend upon the decision of the questions which have been considered; and the opinion having mainly proceeded upon a view which had not been taken at the bar, and having been extended to an inquiry into the source and nature of the Spanish titles to lands in Louisiana, and to an inquiry concerning the laws under which those titles were derived; and the decision of most of the points, therefore, having proceeded chiefly upon grounds which had been little or not at all examined in the argument of the cause, it is deemed proper to remark that counsel will not be excluded from again stirring any of the points which have been here decided, when they may hereafter arise in any other cause."

Thus, sir, you perceive that the Judge himself declares that he had made a sweeping decision which covers the whole ground, and yet that many of the points he had thus settled had not even been mooted at the bar; and, in consideration that they had thus been determined without argument, he gives public notice that they might be re-examined in court.

A judge, who pays a proper regard to his own character and the authority of his own opinions, will never, in delivering them to the public, throw out *obiter dicta* which might embarrass him hereafter. But here Judge Peck, three months after he had delivered a verbal opinion in court, in the case of Soulard, publishes a sort of general commentary on the Spanish law as applying to the province of Upper Louisiana, by which he decides against the claimants all the questions which could possibly arise under Spanish concessions. I say all the questions, and, if there be any one which he has not virtually decided, I should be glad to hear what it is.

Mr. Lawless, being of counsel in a large number of these cases, publishes in another newspaper, the Missouri Advocate and St. Louis Inquirer, the article signed "A Citizen;" and as this publication is the foundation of the alleged contempt for which he was so severely punished, I shall ask that it may be read by the Clerk.

[Here the article signed "A Citizen" was read accordingly.]

Now, sir, the Judge has spent many pages in proving that these strictures of Mr. Lawless are wilful misrepresentations. So far as I have examined the subject, I think that the decisions attributed by Mr. Lawless to the Judge are all to be found in the opinion. He may have been mistaken in two or three instances. But I shall not go into particulars, at least for the present. This, sir, is the dull, tame, flat article which

was considered so flagrant a contempt against the court. To me it appears to have been written as if the author had throughout the fear of Judge Peck before his eyes. I do not believe there is a man in this House, who, in the like circumstances, would have written so mild and so tame an article. What motive could there have been for considering this production a contempt of court? For my soul I never could imagine, (and I believe I am as much disposed to exercise charity as other gentlemen,) unless it might have been to prevent the public from discussing the merits of the opinion in the newspapers. Here is a judge who volunteers in a public journal to proclaim his opinions on all possible points of Spanish land law; a lawyer, feeling a deep interest in these opinions, ventures to set up his own judgment in opposition to them; and for this offence the Judge fastens upon him, as if resolved to make him an example to all others in like case offending. Accordingly, on the third Monday of April, 1826, at the meeting of the court, the Judge, having taken his seat upon the bench, produced the Missouri Advocate, and inquired if any person present knew who was the editor of that paper. To this inquiry, which was not addressed to any particular person, Mr. Lawless answered that he did; and stated it was Stephen W. Foreman. Now the Judge must have known the name of the editor as well as Mr. Lawless. He resided in the same town, and the name was on the paper itself, yet he called upon Mr. Lawless to swear to the fact. He was selected from all the bar and all the bystanders, and required to make this affidavit. The Judge then immediately dictated a rule upon Foreman, commanding him to show cause, on the next day, at 11 o'clock, why an attachment should not issue against him for publishing a false statement concerning the judicial decision in the case of Soulard. Sir, when I was up before, I expressed the opinion that Judge Peck had made his case worse by his cross-examination of the witnesses. From all the facts elicited by that cross-examination, it appears that the Judge had one object in his eye from the origin of these proceedings. His conduct shows that he knew Mr. Lawless to be the author of the article. He had the victim in his view from the very commencement. When Lawless appeared as the counsel of Foreman, the witnesses declare that the Judge treated him throughout as the author of the publication; that his manner was vehement, that he was much excited, and that he was sometimes quite rude. Although Lawless appeared only as counsel, the Judge constantly adverted to him as being himself the author, employing such language as this: "Sir, you say so and so," "your article states such and such things," "I tell you what you say is false."

Under all these circumstances, and under the many vexatious interruptions which he experienced, did Mr. Lawless say or do any thing calculated, in the slightest degree, to cause offence? Not at all. He submitted patiently to the strictures of the court, and argued the case in the most respectful language. He endeavored to satisfy the Judge that his opinion had not been misrepresented, and that the article was neither contemptuous nor libellous; and that, if even it were libellous, the editor was protected from summary punishment by the guaranties of the constitution. Some cases were presented to the court to sustain these positions. All his pleas were overruled, and the Judge was about to pronounce judgment. At this moment, Mr. Lawless, discovering that the matter was likely to become serious, requested the editor to give up his name as the author of the article, wishing himself to meet the consequences. No sooner was this done, than the Judge issued a rule on Lawless, returnable forthwith, to show cause why an attachment should not be issued against him for contempt; and also why he should not be suspended from practice.

The witnesses declare that the feelings of the Judge continued to rise gradually until they reached the highest point of excitement. The rule against the printer had described the article signed "A Citizen" as a false statement, tending to bring odium on the court, and impair the confidence of the public in the purity of its decisions. Not satisfied with this description, the Judge denounces the article in his rule against Lawless as containing "malicious" as well as false statements, and ascribes to it an "intent to impair the public confidence in the upright intentions of the said court, and to bring odium upon the court; and especially with intent to impress the public mind, and particularly many litigants in this court, that they are not to expect justice in the causes now pending therein; and with intent, further, to awaken hostile and angry feelings on the part of the said litigants against the said court, in contempt of the same court."

Now, who but one blinded by his passions could have given such a description of this article? Is there any gentleman within the sound of my voice, who, upon reading the commentary, will say it is, in any degree, applicable? Lawless came before the court condemned already. When his counsel attempted to prove that the article was not a contempt, they were told they would not be permitted to argue that question. The Judge would not hear a word upon that subject. He had determined it to be a contempt, and his will was the law. A citizen of the United States is thus brought before a judge upon a criminal charge involving in its punishment consequences of the most serious character, and the lips of his counsel are sealed upon the principal point of his defence. Not being permitted to present this view of the subject, they argued the remaining question with great ability, and attempted to satisfy the court that, even admitting the article to be contemptuous, it should be tried and punished in a different manner. Their arguments were all in vain.

Now comes the concluding scene, which, to my view, displays the evil intention—the improper motives of the Judge, in the clearest light. He was nearly blind, and unable to read the article himself. At his request, it was read by the district attorney, paragraph by paragraph, and, at the end of each, the Judge made his commentaries. He was much excited, his manner was very warm, and he was occupied two or three hours in delivering his opinion. And what was its whole tenor? Instead of the calm, dignified, and impartial manner which becomes a judge upon all occasions, and particularly when he himself is also the party, we find him heated, acrimonious, and severe. He often used the words "calumniator," "contemptuous," "slanderous," "libellous," as applied to Mr. Lawless and his article. He even forgot himself so far as to say that in China the house of such a calumniator would be painted black, as an evidence of the blackness of his heart, and as a warning that the whole world might avoid him. Throughout, Lawless uttered not a word, not a murmur, in reply. At length, able to endure the abuse no longer, after consulting his friends, he rose, and left the court house.

Had you, Mr. Chairman, been a member of the bar, placed in the situation of Mr. Lawless, what would have been your conduct on the occasion? Could you, with feelings lacerated and excited to frenzy, have sat silently and patiently, and heard the Judge for two or three hours uttering every odious epithet against you, and even declaring that in China your house would be painted black, as an emblem of the blackness of your heart?

At the conclusion of this scene, Mr. Lawless was sent for, and sentenced to be committed to prison for twenty-four hours, and suspended from the practice of his profession for eighteen months. He was thus, by the arbitrary mandate of the Judge, not only deprived of his personal liberty, but of the means of supporting himself and his family. And yet we are to be told that no malice, no evil intention, dictated this proceeding; that the only motive of the Judge was to preserve the administration of justice from contempt. I have stated the facts, and shall leave every gentleman to draw his own conclusions.

I admit that we ought not to impeach a judge simply because his conduct has been illegal. All must agree that this may be the case, and yet he may not deserve punishment. But illegal and oppressive proceedings, accompanied by violence of manner, by passion, and by the appearance of revenge, present a very different case, and give birth to very different conclusions.

I shall not at present permit myself to be drawn into a particular examination of the cases cited by the Judge. His case stands alone. No contempt whatever exists in the article. It is the mere opinion of a lawyer against that of a judge. From the revolution in England until this day, no case can be cited which bears any parallel to the present. If there be such a one on record in that country, I hope it may be produced.

Here I might, and perhaps ought to conclude my remarks, but it seems proper and respectful to the committee that I should state what I believe to be the law in regard to contempts of court. In England, there are two kinds of such contempts; the one direct, the other constructive. From necessity, the power to punish direct contempts in a summary manner must exist in every court of justice. Without such a power, they could not proceed with their business. In its exercise, this power is generally confined to cases of official misconduct in the officers of the court, to the disobedience of parties, jurors, and witnesses, to its lawful orders and process, and to misbehavior in the face of the court, tending to obstruct the administration of justice. If a witness shall wilfully disobey a subpœna, the court from which it issued, must, in the nature of things, possess the summary power of compelling his attendance, and punishing him for contempt, by attachment. So, if a sheriff refuse to obey an order of court, necessity requires the exercise of a similar power. If a bystander will violate order and interrupt the court whilst transacting the business of the country, self-preservation demands that it should possess the power of summarily punishing such an offender. The Supreme Court of the United States have decided that an attempt to bribe a member of this House, although the offer were made in a letter written at a distance, is a direct contempt of its authority, and may be punished by the House with fine and imprisonment.

Constructive contempts are, in their nature, of a very different character, and, under a free Government, will ever be viewed with jealousy and suspicion. The trial of such contempts, in a summary manner, deprives the accused of the protection of a grand and of a petit jury, and often constitutes the injured party both the judge and the avenger of his own wrongs. The judge, when the object of the contempt, becomes himself the accuser, tries the offence, and punishes the offender at his own arbitrary discretion, with as heavy a fine and as long an imprisonment as he may think proper. Is not this a power in its nature revolting to every freeman? Judges do not cease to be men when elevated to the bench. They are still but frail human creatures. Is it not then a dangerous, a tremendous power to make any man the judge in his own cause of a contempt committed against himself, and under excited feelings to limit him, in the measure of the punishment, only by his own mercy and his own sense of justice? Arbitrary discretion thus takes the place of positive law.

I shall not affirm that no case exists in which the courts of the United States ought to possess the power of punishing summarily for constructive contempts. I can conceive but of one;

and then this power, if it exists, is conferred upon the judge, not to enable him to avenge his own wrongs, real or imaginary, but to prevent injustice between the parties to a cause actually pending in court. If, whilst a cause is depending, particularly a case to be determined by a jury, an inflammatory publication should be made in the newspaper, touching the question to be decided, calculated to enlist public feeling in favor of the one party, or prejudice it against the other, the court may possibly, under such circumstances, inflict summary justice upon the author. If such a power does exist in this country, it is the utmost limit. But whether it exists or not, if such had been the circumstances of the case now before the committee, I should have been the last man in this House to recommend an impeachment.

In Pennsylvania, where the courts are as much respected as in any other State of the Union, even this power has always been denied; and, in 1809, the Legislature of that State passed an act, declaring that no publication out of court, even concerning a cause depending, should be construed into a contempt, so as to render the offender liable to attachment and summary punishment. They thought it most expedient to leave the party who deemed himself injured, to proceed by indictment or action at law to obtain his redress. I have never known the least inconvenience to arise from this legislative enactment.

Long before this act had passed, the exercise of this summary power by the courts of that State, in the case of a *lis pendens*, had been made the subject of legislative investigation and impeachment. The case of Oswald occurred in 1788; and although he had been fined and imprisoned for the publication of a most inflammatory article in relation to a cause then actually depending before the Supreme Court of Pennsylvania, the conduct of the judges became the subject of a most serious investigation by the Legislature. In the case of the Commonwealth *vs.* Passmore, which occurred in 1802, although he had been the author of a publication which on its face was clearly intended seriously to injure the character of one of the parties to a cause depending in relation to that very case, the judges of the Supreme Court were impeached, and were within three votes of being convicted by a majority of two-thirds of the Senate, for fining and imprisoning him in a summary manner for this alleged contempt. Although no man can read that publication without at once pronouncing it a direct attempt to interfere with the due course of justice, yet thirteen out of twenty-four Senators believed the sentence of the court to have been an illegal, arbitrary, and unconstitutional exercise of power, for which the judges ought to have been deprived of their offices. These cases, I presume, produced the act of 1809. From its language it does not appear the Legislature entertained the most remote idea that any judge, when the cause was no longer pending, and after final judgment had been rendered, would attempt, as Judge Peck has done, to punish in a summary manner any citizen who might think proper to comment upon the opinion which had been delivered. What is the question which Judge Peck has attempted to raise in his defence? Although I deny that any facts exist in this case out of which such a question can arise, yet it may be well to consider the nature of the power which he contends belongs to the Judiciary. I never did expect to hear it seriously and gravely asserted, by a judge of the United States, before this House, that, if a libel were published against him affecting his judicial character in relation to an opinion which he had delivered upon the final decision of a cause, he could, in a summary manner, try and punish the offence according to his own discretion. If such a power exists in any case of libel, it is for the purpose of securing justice to the parties in a cause depending. When the cause is decided, the judge, in relation to it, is placed in the same situation with any other public officer, and must suffer the fate to which we are all subjected. If he feels that his general conduct and character are not a sufficient defence against attacks of the press, like every other citizen, he must seek redress by instituting a public prosecution or a private action. In such a case, he possesses no peculiar privileges. He cannot become the judge in his own cause. Will it be contended upon this floor that such an arbitrary and unconstitutional power exists in the judges? That they, in this respect, stand upon a different footing from all other public men? Why should they be made the judges of such injuries against themselves, more than the President of the United States, the members of this House, or any other high officer of the Government? What, sir! after a judge has committed his final opinion to the world, upon a great constitutional question—a question in which the rights and liberties of the people may be deeply involved, must the citizen who attacks its doctrines, even in inflammatory language, do it under the penalty of being fined and imprisoned at the arbitrary will and pleasure of the author? If such be the law, woe be to the man who shall be bold enough to hazard a free commentary upon any opinion of a tyrannical judge. Had this doctrine been established ten years ago, the distinguished individual who is now, and I hope may long continue to be, the Chief Justice of the United States, if the will had not been wanting, might have imprisoned many of the most distinguished patriots of the country, for severe strictures on his constitutional decisions.

It may be worthy of remark, that, if this formidable power does exist in the judiciary, it exists without appeal. The principle is well settled, that in cases of commitment for contempt the injured party has no redress. He must endure the penalty, without the possibility of

having his case reviewed by any other judicial tribunal.

One might almost suppose, from what has transpired in this case, that Judge Peck had forgotten that there was an American revolution in 1776, and that the federal constitution has guarantied to citizens of the United States some rights which are not possessed by the subjects of the Crown of England. There was a portion of his cross-examination of the witnesses of so strange a character that I could not, at the time, conceive what was his object. I shall read a few of his questions, with the answers of the witnesses. He asked, "Was it insisted in the argument that the liberty of the citizen, of speech, and of the press, would be violated by the proceeding contemplated by the rule?" A. "It was." "Was it insisted that the constitution, and the right of trial by jury, were also violated." A. "It was." "Was the proceeding represented to be incompatible with the genius of our Government?" A. "I believe it was." His defence has cast some light upon the object of these questions. However strange it may appear, it seems he was desirous of casting even a darker shade upon his conduct, that it might more nearly resemble some English precedents, in which he alleges the liberty of the citizen, of speech, and of the press, and the right of trial by jury, had been interposed to shield the accused, and interposed in vain. Let him speak for himself. He says—

"In the present instance, although the petitioner, Mr. Lawless, has attempted to give solemnity to his complaint, by representing the freedom of the press, the right of trial by jury, and the liberty of the American citizen, to have been violated in his person, in the summary punishment for a contempt of court, inflicted on him, yet your memorialist has no fear of satisfying this honorable House, if an opportunity shall be afforded him, that these are the trite topics continually resorted to, and resorted to in vain, in Great Britain, whenever the courts of that country have found it necessary to punish summarily a contempt."

Heaven forbid that these topics should ever become trite in the United States! that they should ever lose their protecting energy!

It is, I believe, admitted, at this day, by all classes of politicians, that the sedition law was unconstitutional. What was the argument in favor of that measure? The Federal Government, said its advocates, must necessarily possess the incidental power of protecting itself against malicious libels; an argument much stronger when applied to that Government, the two Houses of Congress, and the President of the United States, than to Judge Peck. Yet he, for the purpose of preserving his judicial dignity, claims a power which Congress could not confer upon him. If you were to pass an act to-morrow, authorizing the Judge to try and punish libels, in cases between third persons, it would be a dead letter on the statute book, on account of its repugnance to the constitution. But yet he claims the power of trying and punishing such offences, even where he himself is the party. The sedition law was moderation itself, compared with this claim. Under its provisions the accused was entitled to the benefit of a grand and petit jury, and had an opportunity of confronting the witnesses against him, face to face. In the case now before the committee, Judge Peck combined in his own person the offices of the prosecutor, the grand jury, the petit jury, and the judge; and he punished, according to his own discretion, the libel committed against himself. In such a proceeding, it is not wonderful that the guaranties of the constitution, however strong their language, should have been resorted to in vain. The constitution declares that Congress shall make no laws abridging the freedom of the press; but Judge Peck punishes the exercise of this freedom even when he himself is the party. Should the committee sanction these principles, the Judge will indeed have established that the constitution, the right of trial by jury, and the liberty of the press, are nothing better than trite topics. Need I urge this argument further?

On this floor it is scarce necessary to refer to the English law for the purpose of showing what libels are considered contempts of court in that country. I have examined all the English authorities to which I had access, and I have not been able to find a single case in which their courts have summarily punished a libel, except in causes actually depending. Although the language of Blackstone and Lord Hardwicke is sufficiently general to embrace other cases, I doubt exceedingly whether one can be found in the books, where the doctrine was applied in practice after the cause had been decided.

From the very first sentence of the opinion of the Tennessee court in the case of Derby it appears that there was a cause pending. What was the particular character of that contempt is not stated in the opinion; and thus we are left wholly in the dark in regard to its merits.

It is hardly necessary to remind the committee that I have been arguing the question as if the publication of Mr. Lawless had been libellous against the Judge, instead of being the tame and respectful article signed "A Citizen."

I have now said all that I deem necessary. I have spoken with great pain to myself and I fear to the committee also. Indeed, I have been scarcely able to proceed at all, as you must have perceived. Under these circumstances I feel much indebted to the committee for their attention.

Mr. B. concluded by submitting the resolution which had been reported by the Committee on the Judiciary.

SATURDAY, April 24.

Judge Peck.

The House then resolved itself into Committee of the Whole on the state of the Union, Mr. WILDE in the chair.

Mr. BURGES spoke at length against the original resolution. He occupied the floor for about two hours.

Mr. WICKLIFFE spoke in reply, and in defence of the course pursued by the Committee on the Judiciary.

The amendment offered by Mr. EVERETT was negatived.

The resolution offered by the chairman of the committee was agreed to—yeas 113.

The committee then rose, and reported the resolution.

Mr. BUCHANAN asked for the yeas and nays on concurrence in the resolution; which were ordered.

Mr. PETTIS then moved a call of the House; which was refused.

The question was then taken on concurring with the committee in the resolution, and carried in the affirmative.

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Archer, Armstrong, Barnwell, Barringer, Beekman, Blair of South Carolina, Bockee, Boon, Borst, Bouldin, Brodhead, Brown, Buchanan, Cahoon, Cambreleng, Campbell, Carson, Chandler, Chilton, Claiborne, Coke, Coleman, Conner, Cowles, Craig of New York, Craig of Virginia, Crawford, Crocheron, Daniel, Davenport, Davis of South Carolina, Deberry, Denny, Desha, De Witt, Doddridge, Drayton, Dudley, Earll, Ellsworth, Evans of Maine, Evans of Pennsylvania, Findlay, Finch, Forward, Foster, Fry, Gaither, Gilmore, Gordon, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Hodges, Howard, Hubbard, Ihrie, Isacks, Jennings, Johnson of Kentucky, Johnson of Tennessee, Kendall, Kincaid, King of New York, Lamar, Lea, Lecompte, Letcher, Lewis, Loyall, Lyon, Magee, Maxwell of New York, Maxwell of Virginia, McCreery,, McDuffie, McIntire, Mitchell, Monell, Muhlenberg, Nuckolls, Overton, Polk, Potter, Powers, Ramsey, Richardson, Roane, Russel, Scott, Shepperd, Shields, Semmes, Smith, Speight, Spencer of New York, Spencer of Maryland, Sprigg, Sterigere, Storrs of New York, Swift, Taliaferro, Test, Thomson of Georgia, Thomson of Ohio, Trezvant, Tucker, Verplanck, Washington, Weeks, White of New York, White of Louisiana, Wickliffe, Wilde, Wingate, Yancey—123.

NAYS.—Messrs. Angel, Arnold, Bailey, Barber, Bartley, Bates, Bell, Blair of Tennessee, Burges, Butman, Clay, Clark, Condict, Cooper, Crane, Creighton, Crowninshield, Davis of Massachusetts, Dwight, Everett of Vermont, Everett of Massachusetts, Gorham, Grennell, Hawkins, Hughes, Hunt, Huntington, Kennon, Martindale, McCoy, Miller, Pearce, Pettis, Pierson, Reed, Rose, Sill, Stanberry, Standifer, Stephens, Storrs of Connecticut, Sutherland, Swann, Taylor, Vance, Vinton, Whittlesey, Williams, Young—49.

So the resolution was adopted.

On motion of Mr. BUCHANAN,

Ordered, That ——— be appointed a committee to go to the Senate, and at the bar thereof, in the name of the House of Representatives, and of all the people of the United States, to impeach James H. Peck, judge of the district court of the United States for the district of Missouri, of high misdemeanors in office; and acquaint the Senate that the House of Representatives will in due time exhibit particular articles of impeachment against him, and make good the same; and that the Senate be requested to make order for the appearance of the said James H. Peck, to make answer to the same.

The committee was ordered to consist of two members.

On motion of Mr. STORRS, it was

Resolved, That a committee be appointed to prepare and report to this House articles of impeachment against James H. Peck, district judge for the State of Missouri, for misdemeanors in his said office.

The committee was ordered to consist of five.

MONDAY, April 26.

Maysville Road Bill.

Mr. LETCHER, of Kentucky, moved that the committee take up the bill authorizing a subscription on the part of the Government to the stock of the Maysville and Lexington Turnpike road; which motion prevailed, and the bill was accordingly read.

He said he did not at present intend to do more than to offer, for the information of the House, a very brief statement of facts connected with this application to Congress. The Legislature of the State of Kentucky, (said he,) by a well-drawn and well-guarded charter, have incorporated a company to construct the road referred to in the bill just read, under the name of "the Maysville, Washington, Paris, and Lexington Turnpike Company." The subject is one of very great solicitude in the State, and more particularly in that interesting portion of it through which the road is to run. The attention of the General Government has long since been drawn to the importance and utility of this great highway; and under its immediate direction, skilful engineers, in the year 1827, made a survey from Zanesville, in Ohio, to Florence, in Alabama, including that portion of it over which the contemplated road is to be made. The report of the engineers, sir, is now before me—it is made out with great care, enters minutely into details, and, upon examination, will, I trust, be found entirely satisfactory and accurate.

I will add only a word or two to show the great importance of the road, and to prove, that, by granting the subscription of stock asked for, the Government will not expose itself either to loss or injury, but, on the contrary, will be highly benefited.

Maysville is a flourishing and growing village on the south side of the Ohio River, about sixty miles above Cincinnati. It is already a point of considerable commercial consequence, and no doubt will continue to increase rapidly, both in wealth and commerce. It is justly considered the great depot of the Kentucky merchants who trade to the East. From that point an immense quantity of merchandise, as well

as other articles, is conveyed through various portions of the State.

The road designed to be improved is intended to intersect the great national road in the State of Ohio. It connects itself also on each side with the Ohio River. These two connections most certainly and justly entitle it to the appellation of a national work. Its present condition is too bad to be particularly described, probably the very worst in the United States, while at the same time it is more travelled, in proportion to the population of the country, than any other section of the West. The facility with which it can be constructed, and the small expense compared with the great benefit to the country, recommend in the strongest manner the proposition to take stock to the favorable consideration of the House. The bill is well guarded. The subscription now asked, is not to be advanced until enough has been actually paid by individuals and the State, to equal the amount paid by the General Government. The sum reserved to individuals has all been subscribed, amounting to seventy-five thousand dollars, and the State of Kentucky has subscribed seventy-five thousand dollars more; both these sums are to be fully paid before the subscription of the United States is to be demanded. To illustrate the importance of this road, I have a few strong facts to lay before the House. The company hired a man during one month, to record the number of persons, wagons, horses, cattle, &c., which passed over the road; and the average for a day, derived from this record, amounts to three hundred and fifty-one persons, thirty-three carriages, and fifty-one wagons.

I hold the document in my hand, subject to the inspection of any gentleman who may desire to examine it.

There is no intention to induce the House to subscribe to a mere neighborhood road. The calculation above quoted must convince every gentleman that this is a road greatly travelled —that it is both useful and used. And while the aid of Government will put it in a good condition; the Government will not lose a dollar by its beneficent operation. It is known to many gentlemen on this floor, that the road is one of the worst in all our country. In the winter it is almost impassable, owing to the depth of the soil, which readily forms deep mud holes. Such is the difficulty of getting along, that the wagoners have sometimes to join themselves in gangs to lend each other assistance. Double teams are often hitched to the same wagon; and not unfrequently they become so deeply mired, that the neighbors have to turn out to aid the teamsters; and in winter it often happened, after sticking in the mire, that they are frozen up entirely. The same state of things exists in reference to the mail; and a great saving will be effected by the Government, both as to time and expense in its transportation. Should the road be properly made, the saving on this head alone will more than compensate you, even if the money was given, instead of subscribed. I promised, sir, to be very brief; I trust I have fulfilled that promise. Whilst I do not desire or anticipate any opposition to the passage of the bill, yet I hold myself ready now, and at all times, to defend it, should any be offered.

Mr. FOSTER, of Georgia, moved to strike out the enacting clause of the bill. He could not but feel surprised at the confidence expressed by the gentleman from Kentucky, (Mr. LETCHER,) that the bill would meet with no opposition; this surprise was only equalled by that which he felt at the support which the Committee on Roads and Canals had given to the proposed measure by even reporting the bill. But the gentleman tells us this is a national road—and what are the evidences of its nationality? Why, forsooth, that immense numbers of horses, wagons, &c., travel it, and that in certain seasons of the year it is almost impassable. Really, sir, (said Mr. F.,) if these are the characteristics of a national road, our country abounds with them; there is scarcely a market road in Georgia or Carolina, which might not, with great propriety, claim the distinction. But Mr. F. was too much indisposed to enter into a discussion of the merits of the bill, and was satisfied with having drawn the attention of the committee to it.

Mr. HAYNES inquired whether any survey of this road had been made by the United States engineers; or whether the House was to take the statement of the expense on the estimates of those interested.

Mr. LETCHER replied, that an engineer named Williams, the same person who had been employed by the Government on the Cumberland road, had surveyed this road. It had also been reported on by engineers in the United States service.

Mr. HAYNES said, we all know with what facility such surveys are procured, and how easy it is to get subscriptions to any new scheme, especially where the Government is to be a partner. Some years ago, the House was urged to subscribe to some such undertaking. He believed it was to the Chesapeake and Delaware Canal, when it was pressed as an argument in its favor, that the Dismal Swamp Canal, a link in the great chain of internal communication, as it is called, had been completed; and yet, since he had been a member of this House, a further subscription had been asked and obtained to the Stock of the Dismal Swamp Canal; since which time, a further subscription had been obtained for the same object. Four years ago, we had been asked to subscribe one hundred thousand dollars to the stock of the Louisville and Portland Canal, as necessary for its completion, which was granted. Since that time, a further subscription, of what precise amount he did not recollect, had been sought and obtained, and a still further subscription is now asked for. He said, that, laying aside every other consideration but the mere ques-

tion of expediency, (although his opinions as to the constitutionality of such measures are well known,) he trusted the House would consider maturely before it engaged in such an undertaking.

Mr. LETCHER replied.

Mr. HAYNES regretted that the honorable gentleman (Mr. LETCHER) should have supposed him capable of entertaining vindictive feelings towards Kentucky, Kentuckians, or to any enterprise in which they were interested. He cherished too high a respect for the gentlemen from that State, with whom he had become acquainted here and elswhere, to indulge such feelings. [Mr. LETCHER explained, and disclaimed such an imputation.]

Mr. HAYNES could not permit the inference to be drawn from the remarks of the gentleman from Kentucky, that he (Mr. H.) entertained the opinion that this Government has the power to engage in works of internal improvement. In his opinion, the subscription to stock stood precisely on the same footing, in principle, with a direct appropriation of money for the construction of a road or canal. Indeed, he considered it was not differing from the construction of such a work by the Government.

He considered the power of taxation to be limited by the specific grants in the constitution, and, consequently, the power of appropriation was subject to the same limitations. The relative could not be broader than its antecedent. However, he did not intend to argue the constitutional question, but thought thus much necessary by way of protest against all such acts whatsoever.

Mr. LETCHER, in reply, insisted that the road in this bill was strictly national in its character. Sir, (said he,) from what has fallen from the two gentlemen from Georgia, (Mr. FOSTER and Mr. HAYNES,) I must have been peculiarly unfortunate in the very few remarks I had the honor of submitting when first up. I endeavored to make myself understood. I stated then, sir, and now repeat that statement, that it is expected, and that it is designed to continue the road through the State of Ohio, until it intersects the great national road usually known as the Cumberland road, and that this was the commencement of the scheme. Yet, sir, gentlemen seem to misunderstand, or to misapply, what has been said, and to persist in the intimation, that the object is to obtain governmental assistance for local accommodation. It is not so. The object, sir, has been fully and fairly avowed. Until now, I had supposed it was very generally admitted that the most unexceptionable method in which the Government could engage in works of internal improvement, was to subscribe stock in companies formed by individual enterprise. But, at present, it seems to be feared by the gentlemen that this is the mode best calculated to draw money from the Treasury, to be distributed or given in a neighborhood. He begged gentlemen to believe, that though the road was exceedingly bad, and a good one much needed, yet the friends of the bill were far, very far from asking any thing in the shape of charity. They asked for no gift, no, nothing like it; but merely invited a subscription of stock to assist in the improvement of a most important and useful work, and one which was known to be strictly national. Though Kentucky had never yet received a cent from this Government, while she saw the public money expended elsewhere for objects of internal inprovement, who, sir, has ever heard her utter a groan, or heave a sigh? He trusted she would always have too much pride to beg or to murmur. No, sir, her people are not a begging people. She had always voted to appropriate money for similar objects; and whenever any scheme of the kind was proposed to the House, she presented almost an undivided front. And why? Not from any selfish and sordid motives, but because she was anxious to promote the prosperity and interest of the country, a part of which she is, I hope, considered.

Whilst one of the gentlemen from Georgia urged his objections to the bill, sir, the other I thought seemed much grieved at the subscription which had heretofore been made to the Louisville and Portland Canal, and argued that more money was to be applied for before the adjournment of Congress. When that bill is called up, sir, let the gentleman offer his objections to it. My colleague, (Mr. WICKLIFFE,) who represents that region of the country, will be ready to meet him. But I beg of the gentleman, (Mr. HAYNES,) whatever vindictive feelings he may entertain towards that measure, not to wreak his vengeance upon this unoffending one. The Louisville Canal is no Kentucky measure, and the State cannot be charged with the investment made by the Government for that work. It is a measure in which the States above and below Kentucky, I might almost say, sir, are exclusively interested. The improvement now so warmly opposed by the two honorable gentlemen, I acknowledge, sir, is of immense consequence to the State. It leads to one of the most fertile regions of the earth, and connects it with a navigable stream, a country beautiful and highly productive. Without it, what is our situation? Why, sir, a little like living in the happy valley, very difficult to get into, and yet more difficult to get out of it. We have every thing in great abundance, and to spare, that man could desire, except an outlet to a good market. We raise, sir, far more than we can consume, and we are desirous of furnishing our neighbors out of the surplus, on the best terms and upon the shortest notice. The road must be owned to be national as soon as it reached the great Ohio River. Did it lose its national character because it was to be so much used by the people of Kentucky? It has been emphatically asked why the State does not make the road herself. Sir, (said Mr. L.,) the State is new, her resources

are limited; she would make it if she could; she seeks nothing of you as a gift, but only a little assistance to advance your own interests as well as hers. You are a rich and able Government, with ample means at your command, and cannot lose one cent by complying with her request. Will you refuse it? Let me, sir, put one plain question to the friends and to the opposers of internal improvement. What would you think of the character of a father, who had eight or ten children, each of whom possessed a fine farm, rich and fertile, well situated, and in perfect order, if a younger child, always affectionate and dutiful, who had ever been ready to serve its parent by day or by night, in peace or in war, and who had not deserted him in his deepest affliction, should present itself before him, and say, father, I see that all my brothers are prosperous and happy, they have fine settlements and are doing well—I am glad to see it. I helped all I could to make them so. I do not envy any one of them his good fortune. My own farm, however, is in a bad condition. I have had a great deal of hard work to do, and at this moment I am a little behindhand; and as you, father, are in funds just now, I pray you to advance me a small sum to aid me in completing an improvement highly advantageous both to you and to me; I ask it not as a gift, but merely the use of it for a short period. Sir, is there a gentleman here who could or would justify the father in refusing such a request? and what sort of a father must he be who could turn that child from his door? The case I have put, I think, sir, illustrates our true situation. I will not comment upon it. I will say, however, we scorn to complain of the help which has been extended to others; but we shall think it very strange and very unkind, if, when we come for the first time, and ask you to do a most just and reasonable thing, to aid an enterprise in every respect worthy of the patronage of the Government, you should refuse it. I hope my friend from Georgia (Mr. FOSTER) does not desire to throw any unnecessary obstacles in the way of this bill, should it be the pleasure of a majority to pass it; and I would most respectfully submit to him to withdraw his motion to strike out the first section and let the bill be reported to the House. He can afterwards make any opposition he may think fit. This course will save a great deal of time, and I trust he will consent to it.

Mr. FOSTER said that he most cheerfully accorded to the chivalrous and high-minded Kentuckians all the respect and gratitude to which their sufferings and services in the cause of our common country so eminently entitled them. Nor had he for a moment considered, much less intimated, that, in making the application which the bill under consideration is designed to favor, they approached us in the language of supplication or complaint; he knew too well the proud and lofty spirit of that gallant people, to believe that they would descend to either.

Mr. F. would trouble the committee with only a few words more in relation to the particular object of this bill. The gentleman (Mr. LETCHER) who advocates it with so much zeal, has told us, with his usual candor, that this is only the beginning of a design far more extensive—that this is only a portion of a great road which is to be constructed from Zanesville, in Ohio, to Florence, in Alabama. This is the body, the centre building of the great work—the wings are to be put up hereafter. And all these are objects of national importance! Sir, (said Mr. F.,) it would be easy to point out five hundred, yes, five thousand roads of the same description.

Mr. F. hoped that no gentleman would suspect him of having any wish to impede the progress or improvement of the State of Kentucky; so far from it, he declared himself proud to witness her growing prosperity. The Union owed her a great deal not only for her achievements in the national defence, but for the splendid talents which she contributes to our national councils. Yet, with all his respect for the State, and her patriotic sons, he could not vote for the bill now on the table. He would, however, withdraw his motion for striking out the enacting clause, and suffer the bill to be reported to the House, when a direct vote can be taken on its passage.

[The committee then rose.]

WEDNESDAY, April 28.

The Maysville Turnpike.

The House proceeded to the consideration of the bill authorizing the subscription of one hundred and fifty thousand dollars to the stock in the Maysville, Washington, Paris, and Lexington Turnpike Road Company.

Mr. FOSTER said, that, if this were the only bill of the kind to be presented to the consideration of the House, he would rather suffer it to meet its fate at once, than to delay the time of the House by any remarks of his. But there are now on our calendar nine or ten bills of the same character, and he felt it his duty to warn gentlemen against the danger of establishing the precedent—it will only be the commencement of a system which promises to have no end. The applications of this kind, which had been made during this session, showed the tendency of this system of legislation. It has only been within a few years, he believed, that Congress had ever authorized subscriptions for stock in canal and turnpike companies; but, having done so in a few instances, others have been encouraged to apply. Sir, said Mr. F., some of the petitions now on your table would never have been dreamed of, had it not been for the aid you have given to the Chesapeake and Ohio Canal, and a few others. But these applications having been thus countenanced by Congress, other companies think they have the same right to call on you for assistance. And have they not? Can you grant to one, and not to another? How will you discriminate?

You cannot. The State Legislatures will incorporate companies for objects of internal improvements, whenever applied to; and if you take stock in a company of one State, you must do so in that of another; and thus there will be no end to the appropriations necessary to meet the calls that will be made upon you.

The road now under consideration is to extend only sixty miles; but we have been already told that this is only the middle link of the great chain that is to extend from Zanesville, in Ohio, to Florence, in Alabama. What then is to be the direct and almost necessary consequence of passing this bill? It requires no spirit of prophecy to predict. In a short time, a company will be formed, and incorporated by Ohio, to extend the road from Maysville to Zanesville. Other companies will be incorporated by Kentucky, Tennessee, and Alabama, to construct the portions of the road lying within those States from Lexington to Florence—and then come the applications of all those companies to take parts of their stock. And can you refuse?

But again, sir: Authorize this subscription, in a few days the bill to aid the Baltimore and Ohio Railroad will be presented for our consideration. That is a great work—and we shall doubtless be told it is one of national importance, too. Next comes the Charleston Railroad—and upon the heels of that the Ogeechee and Altamaha Canal, with several others. All, he supposed, national works; and all having equal claims (some of them perhaps stronger) with those of the road now under discussion. Do not gentlemen see, said Mr. F., that they are embarking in a system of legislation to which there is no limit? Mr. F. had also constitutional objections to all bills of this character, but he should not urge them, because he was satisfied that a decided majority of the House believed it was competent for Congress to make appropriations for internal improvements. He, however, understood this same majority to limit the exercise of this power to objects strictly national. Mr. F. was not certain that his mind was sufficiently discriminating to distinguish between national and local objects—but certainly if there could be a public work projected which was not national, it was this very road. A national road from Lexington to the Ohio River! A road on which no troops are to travel—no munitions of war to be transported; and which, in a word, is to answer no national purpose whatever. The idea is absurd; and he begged the House not to be misled by the character sought to be given to this work.

Mr. COLEMAN said that the importance of this subject was deeply felt in the State of Kentucky, and particularly that part of it which he had the honor to represent. This bill was introduced, said Mr. C., upon the petition of a very large and respectable proportion of my constituents; and the road contemplated to be improved, passes through three of the four counties of my district. A number of our patriotic and enterprising citizens have entered into an association for the purpose of acquiring and diffusing information on the subject of internal improvement in the West; and they have, at their private expense, procured the aid of one of the ablest and most experienced engineers in the Union, by whose exertions they have been enabled to lay before Congress a full and satisfactory report, and map, exhibiting the benefits to be derived from this improvement. The Legislature of the State have given an unqualified approbation of the undertaking, and have authorized a subscription of stock, which, considering the state of the finances there, is generous and liberal. These circumstances, evidencing the intense interest of the people and the State, will, I trust, justify me in the few remarks that I may present to the consideration of the House.

This is the first application which the State of Kentucky has ever made to Congress for aid in the construction of her internal improvements; and I did hope it would be permitted to pass without discussion. This violent effort to prevent the passage of this bill, by urging its unconstitutionality and impolicy in debate, was not necessary to show to the world what are the opinions of Southern members on this subject. From the tenor of the argument, I am sure the gentleman from Georgia (Mr. FOSTER) did not expect to change the vote of a single member. Why has it been thought necessary to oppose so vehemently this measure, carrying great advantages to the West? Why demand so imperiously a demonstration of its nationality? Is it because of that peculiar kindness of feeling on the part of the South towards the West, boasted of not long since? Or, is it to encourage a scrupulous investigation of all propositions which may arise here, requiring the public treasure to accomplish an object which is confined to a State in point of locality? I trust that gentlemen may be prepared, when they may be called upon, to justify the expenditure of millions for Georgia, when they refuse one hundred and fifty thousand dollars, in profitable stock, for the aid of Kentucky.

This is no new project which we have under consideration. The Congress of the United States have long since settled the principle of this measure. We have subscribed stock in the Dismal Swamp Canal Company; in the Delaware Canal, the Chesapeake and Ohio Canal, and in the Louisville Canal Companies. But gentlemen say, every inch of the Maysville road is in the State of Kentucky. How can it be national? I answer, every inch of the Delaware Canal, sixteen miles in length, is in the State of New Jersey; and every inch of the Louisville Canal is in one county, nay, I believe in one city. How can they be national? Yet Congress have subscribed for stock in both of them. I have said that this is the first application for the interest of Kentucky. I did

so, sir, because the funds applied to the Louisville Canal are not so much for the benefit of that State, as for that of Pennsylvania, Virginia, Ohio, Indiana, and other States. In truth, sir, it operates against Kentucky, because it operates against Louisville, our most important commercial city.

Nor does this work, now under discussion, promise exclusive advantage to Kentucky. If accomplished to the extent contemplated by this bill, it will greatly conduce to the interests of Ohio, and all the States situated westwardly of us. We claim some attention from this Government; we contribute largely to fill the public Treasury; we, in other respects, perform our part as a member of the confederacy, and can see no reason why our interests should be overlooked. Not as a gratuity, but as a right, we ask it.

The road under consideration is a part of the road from one important commercial situation on the Ohio to another still more so, if possible. The road from Maysville to Louisville, passing through Paris and Lexington, two important manufacturing towns; through Frankfort, the seat of Government, and Shelbyville, is doubtless the most important road in the State of Kentucky, and perhaps equal to any of the same extent in the western country. A very great portion of the goods, salt, iron, and other articles consumed in the State of Kentucky, is landed at Maysville, or Limestone, as it was called in the early settlement of the State, and thence seeks a land transportation to the interior. A vast quantity of the produce and manufactures of the interior is brought to this place, to be shipped for New Orleans; and when the Ohio Canal shall be completed, the quantity will be much greater, as much produce will be sent to the North through that canal and the lakes.

All the groceries used above Louisville are landed at that city and Maysville, and from those places seek a conveyance to the interior along this route; and the produce and manufactures of a very rich country are shipped at Louisville for this lower market. In truth, sir, the quantity of produce and goods transported upon this road, and the travelling thereon, equal those on any road in the Western States; I might say in the United States. I furnished my colleague (Mr. LETCHER) on the Committee on Roads and Canals, an accurate estimate of the travelling on this road, near Maysville, for thirty days, several of which were unfavorable, in consequence of inclemency of the weather. This table shows that, in that period of time, the number of persons that passed was nine thousand four hundred; of horses, twelve thousand eight hundred; and wagons and carts, one thousand five hundred and seventy—making an average per day of three hundred and seventeen persons, four hundred and twenty-seven horses, and fifty-two wagons, besides stock, carriages, &c. I refer gentlemen to the report of the United States engineers, (Long and Trimble,) made during the session of 1827–'28; in which they say that the road from Maysville to Lexington is more travelled than any other of the same extent in the State of Kentucky. These facts are evidences that the stock of this company must be good. From the best information which I have been able to obtain, it must yield six or eight per cent., clear of all contingent and current expenses for repair. It will be borne in mind that the report of Mr. Williams, which I have had laid on some of your tables, as well as that of the United States engineers, shows that the abundance, convenience, and durability of materials for constructing a road, justify the idea that the work can be effected at comparatively little cost, and that, when constructed, it will require but a trifling expense to keep it in repair for many years. If these facts do not incontestably evince the commercial importance of this road, I acknowledge my disability to comprehend what is entitled to these appellations; and they show that these advantages may be obtained at a very inconsiderable comparative expense. If Congress have not the power to create for this nation such commercial facilities as are contemplated by the bill, then am I at a loss to know what rights were designed to be given, under the power to regulate commerce among the States.

This road is the great national mail route from the East to Kentucky, and all the States west and northwest of us. But, sir, what is your mail? Is it a national or a State concern? or is it of any consequence to either? I may differ with gentlemen on this subject, when I suppose the mail establishment appertains to the General Government, and that it is the most valuable department of the Government. It cannot be denied that whatever contributes largely to diffuse information among the people, on the interesting subject of manufactures, arts, literature, commerce, agriculture, and our political relations, is richly worth the attention of this House, wise as it may be, or be supposed to be. In a country where the Government depends upon the will of the people for its efficiency, and their intelligence for its beneficial influences, is it not a consideration of deep magnitude, to liberalize that will, and enlarge that intelligence, to the greatest extent of which they are susceptible?

In my humble conception, nothing can so largely conduce to the accomplishment of these ends, as the constant, I may say daily, intercourse which takes place among all parts of the United States, through the agency of our mail establishment. Sir, as your population presses onward and onward, the same wise policy which first induced the institution of this department, will require its extension. You must keep up that intercourse among all parts of our vast country, especially in the new; because, in a social, commercial, and political point of view, it is essential to our existence. Much has been done in this respect. In 1795, we had

seventy-five post offices, and eighteen hundred miles of post road. Now we have eight thousand four hundred post offices, and one hundred and fifteen thousand miles of post road. An immense improvement in the system! Yet, more may be done with ease and advantage. We can yet aid the Postmaster General to render his department still more useful, by improving the condition of our great mail routes; thereby expediting its progress, and diminishing the cost of its transportation. These, of course, leave more time and means to supply those parts of our common country which are now totally without, or, if supplied at all, to a very partial extent. I feel authorized to say that the saving on the transportation of the mail between Lexington and Maysville would approximate very nearly the interest on the sum now asked, independent of the increased celerity, and all its consequences. And it should be recollected that the chief advantage which the Government proposes to derive from the post office establishment, is not the saving in dollars and cents, but such advantages as would have induced its adoption, if it had been a dead expense to us to the extent of its income, which, I believe, is adequate to defray its vast expenses; advantages which, like our health and our freedom, we are not apt duly to appreciate, until we are deprived of them. Let this country be deprived of this great engine of inter-communion, and we shall, by the contrast, be able to place a proper estimate upon its value, and the high national importance of its utmost extension. In relation to this particular road, let me say to you, that for several months in the year it is impassable. Your stages are obliged to leave it, and seek a passage through farms, and along unfrequented ways; thereby subjected to innumerable delays, difficulties, and dangers. Convinced of this marked inconvenience, the Legislature of Kentucky, aiming at a removal of the evil, has subscribed for stock in this company. Will this Government, infinitely more able, to whom the regulation of the mail particularly belongs, refuse to contribute her portion to this work, when, in its accomplishment, more benefit will accrue to the General Government than to the State, or to individuals through whose landed estates it may chance to pass? It cannot be that this Government will use the road daily, contribute to render it impassable, and withhold its mite to repair and amend its condition. Sir, the sum now asked is but a mite, when compared to the immense sum annually expended on that road in the labor of our peasantry.

THURSDAY, April 29.

Maysville Road Bill.

Mr. POLK said: He was opposed altogether to this system of appropriations for sectional purposes. It was a more easy matter, it appeared, to vote profuse sums in the Congress of the United States. He repeated that it was more easy to vote ten thousand dollars in Congress, than ten dollars in a State Legislature. What would be the result of this lavish mode of expending the public money—what its cause? The country looked to the present Executive for the adoption of a system of economy and retrenchment; and how could this be effected, but by the most vigilant attention? The practical operation of the system now prevalent was directly the reverse. The engineers intrusted with the surveys would not report adversely to a project, the adoption of which benefited themselves. The road in question received the sanction of the State Legislature in January last; so recently, he begged it to be observed, as January last; and yet an application was made to Congress for pecuniary aid towards its completion. Where, he asked, was this system to stop? He conceived the whole of these applications to be most pernicious in their tendencies, and unconstitutional in principle.

Mr. TUCKER reprobated the system upon which this bill, and numerous others of a similar nature, were founded. In his judgment, all such appropriations, besides being unjust and unconstitutional, were pregnant with the most disastrous consequences.

Mr. POWERS opposed the measure. He deemed it objectionable in every constitutional point of view. He spoke of the various ingenious arguments urged in favor of this project, and of others of a similar nature. The Buffalo Road bill had been objected to, because it was too long; and this one might be so objected to, because it was too short. This circumstance reminded him of the lady (and ladies were sometimes fond of complaining) whose husband was stated to find the bread occasionally burnt, and occasionally mere dough. The road had been called national in its object, because it led from one point of the Union to another. Now, he asked whether every road throughout the United States might not be said, by a parity of reasoning, to be a national road; for all of them led from one point of the country to another. This argument, therefore, was utterly fallacious. He concluded by an earnest deprecation of the passage of the bill.

Mr. CARSON objected to the bill. He was opposed to a system which went to make the Government of the Union a stockholder, from sordid views of interest, in public companies incorporated by a State.

Mr. CROCKETT said that he did not rise to make a speech upon the subject. Indeed, he was convinced in his own mind, that, if they were to speak for five days upon it, not a single vote would be changed. Every one, he thought, had already made up their minds with respect to it. He should therefore call for the previous question.

The call was seconded by a vote of yeas 101; nays not counted.

The main question, on the passage of the bill, was then put, and decided in the affirmative by the following vote: Yeas 102, nays 86

So the bill was passed, and sent to the Senate for concurrence.

FRIDAY, April 30.

Land Claims in Florida.

The House proceeded to the consideration of the bill entitled "An act for the final settlement of land claims in Florida;" and the question recurred on the passage of the said bill; when

A motion was made by Mr. WICKLIFFE, that the said bill be recommitted to the Committee on the Public Lands, with instructions to amend the same, so as to exclude from the provisions of the bill all such claims as have been confirmed by the register and receiver, upon the evidence of the confirmation of the Governors of Florida, after the 24th of January, 1818; and, after a long debate, in which Messrs. WHITE and WILDE zealously opposed the motion, and Mr. WICKLIFFE supported it, the motion was negatived by a large majority; and then the bill was passed, and sent to the Senate for concurrence.

[The following are the remarks of Mr. WHITE:]

Mr. WHITE, of Florida, said, he was too sensible of the value of the time of the House, at this late period of the session, to ask its attention longer than was absolutely necessary to reply to some of the most prominent objections that had, in the various stages of its progress, been offered against the passage of the bill now under consideration. I did hope, said Mr. W., that, after the discussion in Committee of the Whole, and the decisive indication given of the sense of the House at that time, this bill would not have been embarrassed by a motion to recommit, which, if successful, puts an end to all prospect of its becoming a law at this session of Congress.

If I can be able to command the attention of the House for a short time, I trust I shall satisfy them that this bill proposes no new principle in legislation; and that the apprehension of any bad consequences resulting from the first section, in its present shape, is entirely fallacious. The object of Congress in organizing special tribunals for the adjudication of these claims, is to free ourselves from the trouble or necessity of going into an examination of the voluminous documents and evidence exhibited by the claimants, and the various intricate questions of Spanish usage and law that must arise in the decision of these questions. Such a body as this, organized to consult and legislate upon the various and complicated affairs of a great empire, has neither the time nor the means of going into a minute or satisfactory investigation of such questions. It has higher duties to perform; and in consequence of the utter impracticability, as well as impolicy, of an attempt to decide upon every small land claim, derived from a foreign Government, in the territories acquired by treaty, it has been the established practice to organize a board of commissioners, to sit in the country where the grants were made, where the archives are deposited, and where the land lies. These officers hold their commissions, and receive their compensation, from the Government, one of the parties directly interested in the decision of every claim presented. If there is any leaning on either side, it is always on that from which the power is derived. With the most honest intentions, and a constant effort to act without prejudice, there is a constant attraction between all federal officers and the Government and its interests. Federal judges pronounce, with great indifference, State laws to be unconstitutional, and State judges pronounce the acts of Congress to be unconstitutional; when neither, unless in an extraordinary case, pronounced the laws of the Government, from which they hold their commissions, unconstitutional or void. To make an application of this principle, I ask any gentleman to read this report, and, instead of striking from this bill one-half of the cases confirmed, I do not hesitate to say that he would be more inclined to say that the number of confirmations ought to be doubled. I do not say that injustice has been done; but I will say, that, if any has been, it is to the claimants. I say that the rigor with which these claims have been examined, will operate more unjustly to them than the United States. I believe that this is the first instance in the history of our legislation since the Louisiana treaty in 1808, in which an attempt has ever been made to reverse the decisions of our commissioners, and strike out half of the claims confirmed by them. Numerous instances can be found at every session of Congress, for twenty years, in which the rigor of the commissioners has been mitigated by the clemency of Congress, in giving to every equitable claim the most liberal and favorable interpretation.

If this motion succeeds, we shall reverse the order of things, and introduce a new system, as impolitic and unwise in the Government, as it will be oppressive upon a people transferred to us, with a guaranty, on our part, to do what Spain would have done. I have had occasion to look into the history of all that has been done by this Government on this subject, and I do not hesitate to declare that the principle in this bill has been sanctioned at every successive session of Congress for twenty years. What is the object of this motion? To recommit the bill, with instructions to strike from it every claim which the Governor of East Florida had confirmed subsequently to the 24th of January, 1818, the time limited in the treaty, prior to which all grants should have emanated, to be recognized and confirmed by this Government.

By the eighth article of our treaty with Spain, the United States agreed to confirm and ratify all grants ("*todas las concessiones*") and concessions made by the Spanish authorities prior to the 24th January, 1818, to the same extent that they would have been valid, if the

territories had remained under the dominion of His Catholic Majesty. This article contemplated the recognition of complete grants, and the completion of imperfect ones, as Spain would have completed them. The *quo modo* of doing this was left to the justice of this Government, under a full conviction that the United States would be just, if not liberal, to their newly acquired citizens. The act of 1828 conferred the power of doing this upon the register and receiver, who were to act as *ex officio* commissioners, to carry this article into effect. These officers sat in the province in which the land lies, having before them the archives of the Spanish Government. They have presented this report, from which it appears that they have confirmed seventy-one small claims, and rejected one hundred and thirty-five. The proposition now is, to recommit this bill, to strike from it thirty cases. Sir, if this motion succeeds, these people will have occasion to regret the day that they were ever transferred to the United States. The act which, according to our ideas, made them free, will, according to their conceptions, make them beggars. I fear some of them will not love liberty so much, as to be entirely contented with your disfranchisement of their property. I say their property, because, if Spain had retained the territories, she would have completed every imperfect title in East Florida, whenever a petition had been presented to the Governor.

It was a part of the policy of France, England, and Spain, to grant lands gratuitously to all the inhabitants who would receive them. The most informal and incomplete of these titles were the most honest, and best entitled to our confirmation, when the policy of that Government is considered. The lowest order of these titles, a "permit of settlement," was declared by the commissioners of West Florida the most honest, as well as the most certain title. To complete it, and obtain a title in the name of the king, called sometimes "a title in form," or "*titulo de propriedad*," or "royal title," it was only necessary to summon witnesses to appear before the Governor, and prove a settlement upon the land, and a continuance a certain length of time. This proof entitled the occupant to a grant in the name of the king. It was a favor to the crown, and not to the subject, to settle and strengthen their distant provinces and colonies. In the interpretation of this treaty, we should remember their policy, and not ours, which holds up the land at a price so high, that it is difficult for a poor man to purchase even the smallest legal division of the surveys. Looking to this policy, can any man doubt what Spain would have done? I cannot doubt but that she would have confirmed every one of those one hundred and thirty-five cases rejected. If any man was not satisfied with his land, he had only to petition the Governor, and a transfer of the location was granted, as a matter of course.

The motion now made to recommit this bill with instructions, is placed by the honorable mover on two grounds: the one of which is founded upon the idea that there are grants made subsequent to the time at which Spain was interdicted from making them by the treaty. If gentlemen will take the trouble to look into this report, they will find that every claim dated after that period has been rejected. The commissioners have not, in any instance, confirmed a single claim posterior to the 24th of January, 1818. They have, in about thirty cases, considered the royal title given by the Governor subsequent to that day, and before the delivery of the province to the United States, as evidence of the performance of the condition. I beg the attention of the House to the fact, that these confirmations are made upon concessions, the largest part of which eventuated from the legitimate authorities of Spain twenty years before the treaty was ever thought of. A concession is a grant, upon condition of settlement. One of the concessions is given as early as the year 1794.

In 1819, the concessionary or claimant came before the Governor, who was a judicial as well as executive officer, and offered his testimony. The witnesses were examined, the proof recorded, and deposited among the public archives on the protocol called "*delligencias.*" The royal title, as it is called, begins with a recitation, "*Por quanto*," &c.; or, "whereas." It recites that a concession issued on such a day upon condition, and that certain witnesses were called and sworn, who proved the performance. These archives are before the commissioners. The testimony is recorded, the witnesses known to the commissioners, or, if dead, or, removed to Cuba, their characters are known from their neighbors. The commissioners say we receive this evidence of the performance of the condition. It would be a nugatory and useless act to call the witnesses over again, when their testimony is recorded, and recited in the royal title given by the Governor. Instead of looking to every act of a Spanish tribunal, as a scheme to defraud the United States, I would rather put this more liberal and charitable construction upon it, and consider the act as an evidence of what Spain would have done if the territories had remained under the dominion of His Catholic Majesty. I do not believe that the Governors of East or West Florida were informed of the provisions of the treaty until it was published here after its final ratification in 1821. Until that period, they were acting under a sense of their responsibility to their royal master, and their acts ought to be received in the same manner as if there had been no limitation in the treaty. So long as the Governor had a right to exercise jurisdiction, he had the unquestionable power to examine witnesses, record testimony, either with a view to its perpetuity, or to be used in foreign courts. This would seem to be a power so naturally inherent

in every tribunal, that it hardly needs a reference for its support to that well-known and universally acknowledged principle, in all civilized nations, to receive with respect the acts of all tribunals of other nations, and to presume that they acted within the sphere of their jurisdiction and duty. It is nothing more than a principle of comity and courtesy—one which our courts of admiralty are in the practice of acting upon, and which has been repeatedly recognized by the Supreme Court of the United States. The king of Spain, and his officers, have as much right to disregard the acts of our tribunals, as we have those of Spain, on principles of national law; and if these claims are denied on such grounds as are now urged, they will have more reason to question the justice of our decisions, than we have ever yet had to condemn theirs. I am neither the defender nor the apologist of the Spanish authorities. The special court appointed by this Government, having the archives before them, have received this evidence, and confirmed these claims, not on the authority to grant subsequent to the limitation in the treaty, but upon a concession made ten or twenty years before. The performance of the condition only has been proved in due form after the time. The honorable gentleman should recollect that the authorities of Spain were not interdicted by the treaty from the exercise of any jurisdiction, or the execution of any of their functions, until the delivery of the country to the United States. The provision is, that all grants made posterior to that date shall be void. In this report, all grants of that description are declared void. The class proposed to be stricken out were made prior, but witnesses were sworn, and proved a settlement according to the terms of the concession subsequently. The commissioners of West Florida, in every case of this kind, confirmed the claim. In the abstracts of the confirmations of that board, in the Executive Documents of 1824–'5, which I now hold in my hand, it will be seen that where concessions and royal titles were both made, the one prior and the other subsequent to the 24th of January, 1818, we confirmed the title upon the concession. This was done by the commissioners of East Florida, and by the register and receiver in their report of 1828—all of which have been approved and confirmed by acts of Congress. The principle here is precisely the same, and it is for this House to say whether they were bound to summon witnesses to prove that which had been already proved before a Spanish tribunal, the evidence of which was before them. It would have been an act of supererogation, a useless consumption of time.

The next ground of objection is, that we shall establish a dangerous precedent for the courts, which will be injurious to the public interests; and this is seriously urged upon Congress as a reason why this bill should be recommitted. Sir, it is the first time I ever knew that a legislative act was to be received as a precedent for the admissibility of evidence in courts of justice. Congress may declare that every man may make affidavit to the genuineness of his own grant. Will that justify a court in allowing a man to be a witness in his own case? The distinction between a legislative body and a judicial tribunal, the one governed by considerations of policy, and the other by fixed laws, seems not to have occurred to the gentleman. Who ever heard of the decisions of our committees on the evidence offered to them being quoted before judges as a precedent for their decisions? What Congress, in its legislative discretion, chooses to do, has never yet been, and never will be, a precedent for the courts. The courts might as well attempt to pass an appropriation act, as to say they will confirm claims because Congress confirmed them. I need not pursue this part of the subject further, because the question can never be made in the courts. All the cases which are or can be presented to them are now printed by order of this House, and now upon my table, to which access can be had by every member. There is not among that number a single case in which a royal title is given after the 24th of January, 1818; and if the courts were to look to legislative acts as precedents for them, the case will never occur in which such a reference can be made. All the apprehensions from this quarter may be quieted by the examination of the cases referred to the courts for decision. The limitation in the treaty, it is well known, was introduced expressly with a view to exclude the grants to the Duke of Alagon, De Vargas, and Count Punon Rostro, and no other. It was so declared at the time of making the treaty, by those who negotiated it. The idea of excluding any other was indignantly repelled by the Spanish Minister, and never insisted on by our Government. The President of the United States (Mr. Monroe) informed Congress, in an executive message, that such was the object of that provision. Although such was the view of those who negotiated the treaty, that clause has been so rigidly enforced, as to exclude from confirmation every claim derived from the Spanish Government when they possessed the sovereignty of the provinces, between the 24th of January, 1818, and July, 1821, when the provinces were delivered. All these claims were intended to be, and ought to be, confirmed; but, by the use of general words, to get rid of the large ones, these, too, have been rejected. Not content with this advantage, thus secured against a population that Spain was about to transfer, and about whose rights the king and his Ministers were somewhat indifferent, rendered more so from a conviction that the inhabitants of the ceded territories desired the change, we are now about to strike out one-half of what has found favor under the rigid construction of the commissioners, because a Spanish Governor had the witnesses

sworn and the testimony recorded. I cannot persuade myself that this House is prepared to sanction a principle so unjust and odious.

The whole amount of land in these thirty small claims does not exceed fourteen thousand acres, which is not worth the expenses of this House during the time of this debate. If these claims are stricken out, what is proposed to be done? Is a new board to be organized, after a delay of nine years in the adjustment of these titles? If a new board is to be created, their expenses will be greater than the value of the land. The public surveys will be stopped, the private property cannot be separated from the public, the population of the territory will be retarded, and the most mischievous consequences result from the delay.

Those who are here from the new States well know the difficulties and embarrassments arising from unsettled titles to the country itself; and those who have never seen it, can form but a very imperfect conception of the misery of pursuing, for ten years, an uncertain title in the tribunals of a country, the language and forms of which the petitioner cannot comprehend. The cry of fraud at this period of the session, the denunciation of all that is of Spanish origin, is enough to overturn the most beneficial measures; but I trust that this House, from the confidence reposed in its own tribunal, from the long delay and injustice already done to these claimants, and from a regard for the territory itself, will not recommit this bill, and produce confusion in the country, and certain ruin among its inhabitants.

SATURDAY, May 1.

Judge Peck.

Mr. BUCHANAN moved to postpone the orders of the day, for the purpose of taking up and acting on the article of impeachment.

Mr. WHITTLESEY said, (this day being set apart by themselves for considering private bills,) he, as the member charged with attending to this class of business, would say, that it was perhaps inexpedient to press the consideration of many more of the numerous private bills yet on the docket, because, if they were passed, and sent to the Senate, and not acted on there, they would be in a worse situation than if they remained as they are, for the House to take them up at the next session. He should not, therefore, oppose the motion for postponement.

The House then went into Committee of the Whole, Mr. STERIGERE in the chair, and took up the article of impeachment reported by the Select Committee against Judge Peck.

Some verbal amendments being made to the article, on motion of Mr. BUCHANAN,

The committee rose, and reported the article to the House; and by the House it was agreed to without objection.

Mr. BUCHANAN then moved that the House proceed now to the appointment of five managers, to conduct the impeachment on the part of the House of Representatives.

Mr. WILLIAMS inquired how many managers were appointed in the case of Judge Chase.

Mr. BUCHANAN replied that seven managers were appointed on that occasion, but it was thought that five were as many as were necessary for the present case.

Mr. B.'s motion being agreed to,

The House proceeded to the appointment of five managers, by ballot, when the following gentlemen received a majority of votes, and were appointed, viz:

JAMES BUCHANAN, of Pennsylvania.
HENRY R. STORRS, of New York.
GEORGE MCDUFFIE, of South Carolina.
AMBROSE SPENCER, of New York.
CHARLES WICKLIFFE, of Kentucky.

The first four were appointed on the first ballot. Four ballots took place before a fifth manager was chosen, in all of which till the last the votes were pretty much divided between Mr. WICKLIFFE and Mr. DODDRIDGE, besides whom a large number of members received more or less votes.

On motion of Mr. BUCHANAN, it was

Resolved, That the article agreed to by this House, to be exhibited, in the name of themselves and of all the people of the United States, against James H. Peck, in maintenance of their impeachment against him for high misdemeanors in office, be carried to the Senate by the managers appointed to conduct said impeachment.

On motion of Mr. BUCHANAN, it was

Resolved, That a message be sent to the Senate, to inform them that this House have appointed managers to conduct the impeachment against James H. Peck, judge of the district court of the United States for the district of Missouri, and have directed the said managers to carry to the Senate the article agreed upon by this House, to be exhibited in maintenance of their impeachment against the said James H. Peck, and that the Clerk of this House do go with said message.

MONDAY, May 3.

Culture of Silk.

Mr. A. SPENCER, from the Committee on Agriculture, reported the following resolution:

Resolved, That ten thousand copies of the Manual on the growth and manufacture of Silk in other countries, transmitted to this House by the Secretary of the Treasury on the fifth day of February, 1828, be printed for the use of this House.

Mr. POLK moved to lay the resolution on the table, but the motion was negatived—nays 80.

Mr. MCDUFFIE opposed the resolution, having understood that the work proposed to be reprinted possessed no value. The instructions were too complex for unlettered people, and experience proved that it was of no use to them. Persons in his part of the country, who

made many pounds of silk every year, could derive no benefit from this book.

Mr. CAMBRELENG concurred in the opinion that the book was not worth printing. A person engaged in preparing a work on the same subject, and who understood it well, informed him that the manual was worthless. Let the committee take all the works on this subject, and compile one containing the best of each. Several works have been since issued, that are superior to the one in question.

Mr. BATES, of Massachusetts, said, here was experience against experience. It was alleged by gentlemen that practical, intelligent persons, professing to be able to give an account of the subject themselves, had denounced the work in question as worthless. Now, he had in his district some men of some little intelligence, who were engaged in the silk culture, who said the work was a very valuable acquisition. He had received letter on letter for a copy of the work, but not one was to be had. The book was valuable, because it gave an account of the best modes of cultivating silk in countries where it had been cultivated for centuries. As he had no doubt of the value of the work, and as it was not voluminous, he hoped the House would have it disseminated, without regarding the pittance it would cost.

Mr. WAYNE would not undertake to pronounce on the merits of the work, but he knew that many of the people whom he represented were very desirous to obtain it. In the early settlement of Georgia, the object of many was the growth of silk, and it was commenced and tried for some time. Why was it discontinued? From one of two causes: Either by being superseded in value by other pursuits, or being discouraged by the want of information. Many, however, continued the culture, and some have prosecuted it for forty years, who, residing on lands too arid for other cultivation, have gone on in the original pursuit; the culture has not been extended because of the want of suitable information to instruct them in it. He wished, therefore, that the information contained in the work in question should go forth for the benefit of those who needed it. He referred to societies formed or forming in Georgia, for the cultivation of silk, to whom the information would be particularly useful and acceptable.

Mr. SPENCER, of New York, rose to make some remarks, but the expiration of the hour arrested the debate.

TUESDAY, May 4.

Judge Peck.

Mr. BUCHANAN, from the managers appointed on the part of this House to conduct the impeachment against James H. Peck, judge of the district court of the United States for the district of Missouri, reported:

"That they did, this day, carry to the Senate, then in session as a high court of impeachment, the article of impeachment agreed to by this House on the 1st instant; and that they were informed that they would take proper measures relative to the said impeachment, of which the House would be duly notified."

MONDAY, May 10.

Bank of the United States.

Mr. POTTER, of North Carolina, by leave of the House, offered the following resolutions:

1. *Resolved*, That the Constitution of the United States confers no power on Congress to establish a corporation with authority to manufacture money out of paper, and circulate the same within the limits of any of the States.

2. *Resolved*, That if such power existed in Congress, it were unwise and inexpedient to exercise it, and especially to the extent contemplated in the present charter of the Bank of the United States.

3. *Resolved*, That the paper money or banking system, generally, is in its tendency ruinous to the interests of labor, and dangerous to the liberties of the people.

4. *Resolved, therefore*, That this House will not consent to the renewal of the charter of the Bank of the United States.

The resolutions having been read,

Mr. POTTER said it was not his object to invite discussion on the subject at this time. He had offered the resolution as a set-off to the report of the Committee of Ways and Means, on the same subject; and he pledged himself, whenever it came up for consideration, to make good the propositions embraced in his resolutions. He had offered them altogether, independently of any regard to mere personal partyism, with which he acknowledged no sympathy whatever, but as a guaranty to the American people, from his place in this House, that the measure, to prepare the way for which the report of the Committee of Ways and Means had been brought in, would be resisted here. It should be resisted here; and he earnestly hoped that the people, in every section of the United States, would forthwith fix their attention upon this subject, as one involving, in the most essential manner, their dearest rights and interests; and that, by a timely and vigilant exercise of their power at the polls, they would take care to organize this House with a direct reference to the adjustment of this question. For the present he moved to lay the resolutions on the table.

Mr. WHITTLESEY demanded that the question, whether the House would consider the resolutions, should be put, lest the entertaining of the motion by the House might affect the price of the stock, &c.; but,

The SPEAKER deciding that the motion to lay on the table took precedence of the motion of "consideration,"

The question was put on laying the resolutions on the table, and decided in the affirmative as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Ander-

son, Angel, Archer, P. P. Barbour, Bell, John Blair, Boon, Borst, Brodhead, Brown, Cambreleng, Carson, Claiborne, Clay, Coke, Hector Craig, Robert Craig, Crawford, Crockett, Crocheron, Davenport, J. Davis, W. R. Davis, Deberry, Denny, Desha, Earll, Findlay, Ford, Forward, Fry, Gaither, Gordon, Green, Hall, Harvey, Haynes, Hemphill, Hinds, Hoffman, Hubbard, Ihrie, Irvin, Isacks, R. M. Johnson, C. Johnson, Kincaid, P. King, Lecompte, Lewis, Loyall, Lumpkin, Martin, Thomas Maxwell, McCreery, McCoy, McDuffie, McIntire, Mitchell, Monell, Nuckolls, Pettis, Polk, Potter, Powers, Rencher, Roane, Russel, Scott, Wm. B. Shepard, A. H. Shepperd, Shields, Semmes, Sill, S. A. Smith, Speight, Stanberry, Standifer, Strong, Trezvant, Tucker, Verplanck, Wayne, Weeks, Wickliffe, Williams, Yancey—89.

NAYS.—Messrs. Armstrong, Arnold, Bailey, Noyes Barber, Barringer, Bartley, Baylor, Bockee, Burges, Cahoon, Chilton, Condict, Conner, Cooper, Cowles, Crane, Creighton, DeWitt, Doddridge, Duncan, Ellsworth, Geo. Evans, Joshua Evans, Edward Everett, Horace Everett, Finch, Gilmore, Grennell, Hawkins, Hughes, Hunt, Huntington, Ingersoll, Jennings, Johns, Kendall, Letcher, Martindale, Lewis Maxwell, Mercer, Miller, Muhlenberg, Norton, Pearce, Pierson, Ramsey, Randolph, Reed, Rose, Ambrose Spencer, Stephens, Sutherland, Swann, Swift, Taylor, Test, Vance, Varnum, Vinton, Washington, Whittlesey, Wilde, Wingate, Young—66.

Mr. DRAYTON, of South Carolina, and Mr. WHITE, of New York, were, at their own request, excused from voting on the question, each stating that he was interested as a stockholder in the bank.

Mr. HALL, of North Carolina, stated to the House that as he happened to be without the bar of the House when his name was called, he was therefore precluded from voting, but that he would have voted against laying the resolutions on the table.

Mr. ARCHER rose to move that the resolutions be printed; but the admission of a motion requiring unanimous consent, and it being objected to, the motion failed.

WEDNESDAY, May 12.

The Tariff—Salt.

The House resumed the consideration of the bill to regulate the collection of the duties on imports, with the depending amendments.

The question under consideration when the House adjourned yesterday, was on the motion of Mr. GORHAM to reconsider an amendment agreed to, concerning the duty on iron, &c.; which motion grew out of the adoption of the other amendment for reducing the duty on salt.

Mr. GORHAM, of Massachusetts, briefly explained his object in making this motion. He considered the vote upon the salt duty as breaking in upon the present system of revenue, instead of regulating its collection, which was the object of the original bill now under consideration. He appealed to gentlemen whether it was possible to pass any bill on this subject at this session, if the whole field of debate was thus thrown open. Mr. G. concluded by saying, that, under this view of the case, if any gentleman would move to reconsider the vote upon the salt duty, so as to make it possible to agree upon any bill upon this subject, he would, to make way for such a motion, withdraw the motion which he had made.

Mr. DODDRIDGE, of Virginia, having intimated a disposition to make the motion suggested by the member from Massachusetts, Mr. GORHAM withdrew his motion; and

Mr. DODDRIDGE moved to reconsider the vote upon Mr. BARRINGER's amendment for reducing the duty on salt.

Mr. WAYNE, of Georgia, asked whether it was the intention of the gentleman from Massachusetts to renew his motion if the pending motion was rejected.

Mr. GORHAM declining to make any pledge on that point—

Mr. WAYNE, taking it for granted that such was the intention of Mr. GORHAM, made a decided speech against the course now proposed, considering it as a mere proposition, call it by what name gentlemen would, of bargain and sale: against which he inveighed with considerable warmth and zeal.

Mr. BARRINGER, of North Carolina, deprecated a protracted debate on this question of reconsideration, and expressed great regret that so much difficulty should exist in obtaining a reduction of the duty on this necessary of life. He dwelt upon the course of the State of North Carolina in reference to this duty, and to the tariff generally, and made a very strong appeal to the magnanimity and spirit of conciliation of members from other States to grant this little boon to a State which had heretofore asked for so little, and submitted so cheerfully to the laws regulating the duties on imports, and to the general legislation of Congress. Mr. B. concluded his speech by a motion for the previous question, (which would have been upon the question immediately pending, viz., reconsideration.)

The House refused to second the previous question, by a vote of 98 to 83.

Mr. REED said, that when the vote of the House was taken yesterday to reduce the duty on salt, he was surprised at the result. I feared (said Mr. R.) that I, as well as others, had been remiss, in the discharge of my duty, in permitting the question to be taken without discussion. I am aware that the main subject before the House was a bill to enforce the due observance of our revenue laws, and to prevent smuggling and fraud in their execution. An amendment had been introduced into the bill by a gentleman from South Carolina, (Mr. McDUFFIE,) materially altering the tariff. We have had for a number of days, a debate, able and spirited, but of a very general character, investigating the whole tariff principle. I supposed that to investigate the subject generally was the object of the debate, and I had no ex-

pectation that any changes in the tariff were contemplated at this session.

The amendment referred to contained a number of articles on which a reduction of the duty was proposed. In the discussion before the House, little or nothing has been said as to the policy or expediency of reducing the duty on those articles. Nor has any thing been said as to the effect of the reduction of duty on those articles, either to the manufacturer or consumer. I could not suppose that a repeal of any duty was seriously contemplated, without a more particular examination of the subject. I could not imagine it, because this House have repeatedly expressed a different opinion by their votes, and because they had on the very same day voted entirely different as to other amendments. I hope, then, sir, this House and my constituents will forgive me, if, under such circumstances, I refrained from saying that which, under other circumstances, I should have felt under the highest obligations to urge upon their consideration. I trust it is not too late yet; and I beg the attention of the House while I state, as well as I may be able, the reasons why I think they ought to reconsider the vote of yesterday.

I have been no advocate for the tariff, but I am an advocate for some permanency in duties deeply affecting the interests of all. We must have revenue. We shall not vote for direct taxes. We shall, therefore, continue to raise revenue by duties as heretofore. In assessing this tariff of duties, I have no hesitation in saying it should be a discriminating tariff. It should have reference to the means and wants of the country—to manufacturers and consumers.

Of the tariffs that have passed this House, in my opinion no part of the country has suffered more than that which I have the honor to represent; and I am quite sure no interest in the country has suffered so much as the navigation interest. Without sufficiently examining the subject, I know that interest is severely oppressed by high duties, and it is now compelled to contend with foreign nations under great disadvantages. I, therefore, have always hoped we should modify the tariff of 1828, made under the most unfavorable circumstances.

No subject can be presented to statesmen, of greater difficulty than that of fixing a just and expedient tariff, unless it be the subject of altering and repealing a tariff when made. If we would consult the public good, we must divest ourselves of party spirit. Some gentlemen contend that "we have a right to repeal duties when we please, regardless of the consequences to manufacturers." We have the power, the physical power; but do we possess the moral power? Are we not bound to look with attention and regard to the interests of all, and every part? Whatever might have been our political views or votes in Congress, are we not bound to regard and protect, as far as we may be able, those interests which have grown up in consequence of the laws and regulations of our country? I have always felt and acknowledged these obligations, and endeavored to act accordingly. I have always admitted the rights and claims of minorities; and, in that view, I have always given full weight to the representations of the South. Minorities have rights, and majorities are morally bound to regard them. If southern people are suffering as they represent, and those sufferings result from our tariff laws, those laws ought to be modified. But these are questions which must first be decided; and as prosperity and adversity are but comparative, the interests of the whole and the parts must be carefully examined. Our duties were laid for revenue, but adapted to the situation of the country and the wants of the country, and were calculated to call forth the effort of the country to relieve those wants. If valuable interests have grown up under such a state of things—under the fostering influence of our laws, who would wantonly destroy such interests? I trust, no one. Sound policy forbids frequent innovation upon these subjects. I have no hesitation in saying that, so far as relates to property, our Government is one of the worst possible, unless there be permanence in our principles and policy. No wise man can consider the question, as now presented, to be what would have been wise and good in relation to the tariff, and decide accordingly. No; a very different state of things is presented. Our great duty now is, to look at the laws, and the interests of the country, superinduced by those laws, and do what is right and expedient. We must view things as they now are?

The interest of every part should be consulted. I am always happy to hear a member of this floor state the situation of his own constituents; and I have never had any hesitation in presenting, as far as I might be able, the situation of those whom I have the honor to represent. In that way we obtain actual knowledge of the situation of the country, and are enabled to act wisely, if we are governed by the knowledge we obtain. The subject now under consideration, the repeal of the duty on salt, either in part or whole, is one of importance to all, and more especially to those engaged in the manufacture. Salt manufactories have grown up under governmental recommendations and governmental encouragement.

As I esteem the early history of our country invaluable, allow me to ask you to go as far back as July, 1775—the very period of the declaration of our independence. No salt was then manufactured in this country. What was the situation of the country in relation to salt, so necessary to life itself? A few recollect; others have heard. I will refer to some short abstracts from the journals of the old Congress, lest there should be doubt in the mind of any one.

In July, 1775, a few days after the declaration of independence, a committee of thirteen (one from each of the States) were appointed to make inquiry for virgin lead, leaden ore, and the best method of collecting, smelting, and refining it; and, on the

same day, the same committee were directed, in the recess of Congress, to inquire into the easiest and cheapest method of making salt in these colonies.

December 29, 1775. *Resolved*, That as the importation of any universally necessary commodity, and the exportation of our produce to purchase the same, must give proportionably greater opportunity to our enemies of making depredations on the property of the inhabitants of these colonies, and of occasionally distressing them by intercepting such commodities, it is earnestly recommended to the several assemblies or conventions immediately to promote, by sufficient public encouragements, the making salt in their respective colonies.

May 30, 1776. *Resolved*, That it be recommended to the Committees of Observation and Inspection in the United Colonies so to regulate the price of salt as to prevent unreasonable exactions on the part of the seller, &c.

December 9, 1776. Whereas, in consequence of many complaints that engrossers had distressed the public by raising salt to an exorbitant price, the Council of Safety of Pennsylvania, with the approbation of Congress, took the management of the affair into their hands, and have endeavored, by as just and equal a distribution as possible of the salt imported from time to time, to supply the different parts of the country, yet it is found upon trial, &c., that the remedy has been ineffectual; and, on the contrary, salt continues scarcer and dearer in this port, than when no regulations have been tried: therefore, *Resolved*, That it be recommended to the Council of Safety of Pennsylvania to take off all restraint upon the sale of salt, &c.

June 3, 1777. *Resolved*, That a committee of three be appointed to devise ways and means for supplying the United States with salt.

June 13, 1777. *Resolved*, That it be recommended to the several States to offer such liberal encouragement to persons importing salt, as they shall judge will be effectual, &c. That it be recommended to the several States to erect and encourage, in the most liberal and effectual manner, proper works for the making of salt.

July 17, 1777. That, in consideration of the scarcity of salt, &c., the Committee on Commerce take the most effectual and speedy measures for importing into different parts of this continent large quantities of that article, &c.

October 22, 1777. Whereas there is an immediate demand for the article aforesaid, in the middle district, (referring to other resolutions respecting salt,)

Resolved, That the supreme executive authorities of the States of Massachusetts Bay and Connecticut be respectively requested to assist the Commissary General of Purchases in procuring wagons or teams for removing twelve thousand bushels of salt from the eastern to the middle district, &c., and in removing the salt from thence to such places on the North River as he shall judge most convenient.

The above extracts from the records of the old Congress show most conclusively the situation of the country at that time, and their distress for the want of this necessary of life. They show the anxiety that they felt to introduce the manufacture of salt into the country, and that they used all the power they then had to encourage it.

At that time, the manufacture of salt from sea water, by solar evaporation, was commenced in my neighborhood and district. In the beginning, their inventions were crude and imperfect, but the manufacture has steadily advanced, and improvements have constantly been made from that time to the present. No patent was taken, and their improvements have been introduced into Rhode Island, Connecticut, New York, New Jersey, North Carolina, and other places, and may be used by all who feel inclined to use them.

At present, as appears by the return, they have in Massachusetts, and principally in my district, a capital invested in the manufacture of salt, amounting to one million seven hundred and fifty-four thousand five hundred and seventy-six dollars. They manufacture annually five hundred and three thousand six hundred and eighty-six bushels of salt, of the best quality, and fit for any use whatever, fully equal to alum or Turk's Island salt.

Permit me to inquire for a few minutes what has been the legislation of our Government upon this subject.

In the very commencement of the Government, in 1789, a duty of six and a quarter cents per bushel was laid upon the importation of salt. This duty was undoubtedly laid for revenue; but have we not every reason to believe that those men who composed that Congress, and who were in part the same men who composed the old Congress, had a full knowledge and recollection of the acts of that Congress in relation to salt? Had they not a full knowledge of the distress of the country, and the exorbitant price paid for the article? and had they not, in furtherance of the repeated resolutions and recommendations of the old Congress the intention, by laying the duty, to encourage its manufacture? I cannot believe it admits of doubt. In August, 1790, the salt tax was raised to twelve cents per bushel. In 1797, to twenty cents. This duty was continued until 1807, when it was repealed; the repeal had a bad and almost ruinous effect upon the manufacturer, with very little temporary benefit to the consumer. In the year 1813, the same duty of twenty cents per bushel was laid. This act was limited to continue until one year after the close of the war, and no longer. Hence it has been called a war duty in this House. I perceive not the distinction attempted to be set up, but let gentlemen remember, that, on the expiration of the period limited, in April, 1816, the limitation was removed, and the tax was made as perpetual as any other tax. It has continued from that period until the present. Under the influence of this duty, the various salt manufactories, on the seaboard and in the interior, have been brought into operation. They have been every year increasing. They have been in a great measure successful. New improvements have been added every year in the cheapness and quality of the salt. The capital employed, I think, must exceed eight

millions of dollars. It can be used for no other purpose. We manufacture at this time, in the country, nearly five millions of bushels yearly, and more than half the average quantity used for fourteen years past. The competition in the market on the seaboard, where foreign salt must be brought, has reduced the price very much. It could not be much reduced by a repeal of the duty, and in a few years would be higher if the duty was repealed. Salt is imported principally in ships as ballast. The importer gains little, very little, for freight, for the reason I have given; otherwise, a fair charge for freight would be three times what is now obtained. I regret it, on account of the merchant; but in such a case, he ought and must yield his profit for the public good.

It should be understood that the manufacture of salt on the seaboard can be successfully prosecuted with a small capital. Those who are no longer able to pursue the life of seamen, in many cases erect a small manufactory for salt. There are more than eight hundred of these small factories in my district; their salt is taken away in small vessels, and carried to market to various parts of the country. Nothing can be so well calculated to produce severe competition, and thereby reduce the price, as these manufacturers meeting the importer. Their competition with each other, and with the importer, has reduced it to the lowest price, not exceeding thirty cents for fifty-six pounds.

But some gentlemen seem to suppose that the duty on salt is no part of the tariff. What is the tariff? What do gentlemen understand by encouragement to manufactures? Have we any law by which manufactures are encouraged, other than the tariff of duties on the importation of similar articles? Have we any pledge for the permanency of those laws, except it be the wisdom and discretion of Congress? Have I not shown that salt was an article for which the country suffered much in the days of the revolution—that they were anxious then to encourage it—that the laws, from the commencement of the Government, and especially since 1816, more than fourteen years, have had that effect; and are we not to suppose they were intended to have that effect? Is it not an article essential to life, and, therefore, to independence?

Who, then, can say, with any plausibility, that the duties on salt were not intended to bring forward and encourage its manufacture, at least as much as that of any other article in the tariff? How are we to learn what article is to be protected, but from the duties and the law?

Much has been said of the exorbitant price paid for salt in various parts of the country. Yet, by the mercy of a kind Providence, the whole ocean affords the means of producing it, and springs much salter than the ocean abound in the interior, in various parts of the country; and all now have skill to manufacture salt. The price is not, as it once was, high in any part of the country. Neither the poor nor rich are suffering on that account. Salt, compared to its value, is heavy, and transportation expensive. The price, therefore, must, in a great measure, depend upon the distance it is transported on roads, and the character of those roads. But, inconsiderately, the price of transportation is charged to the duty. The price of salt on the seaboard is regular and reasonable. Our duties, in the first instance, if they affect the price at all, can only affect it on the seaboard, where it is imported. How, then, can men expect relief in the interior so much talked about? I know it may be a popular subject to hold out to a certain class of men, but it is delusive. The price is now low where it is imported. The very duties so much complained of, have contributed to keep it low, and prevent fluctuations; and the relief sought by those alone who have occasion of complaint, is sought from a wrong source. Reduce the price of transportation by canals, railroads, or other good roads, and then the object will be effected, and not till then. Then, indeed, will the poor farmer—and no class of men are entitled to higher respect and consideration—find relief. I regret to find so much opposition to this duty from the South. The manufacturers at the North take their flour and corn, and would desire to furnish them with salt in exchange. Both are necessaries, for rich and poor, and the exchange might be mutually beneficial. It has been carried on to some extent, and was particularly beneficial during the late war.

It has been urged, with great spirit, that certain monopolists have charged an extravagant price for salt, and oppressed the people. I am as hostile to monopolies and monopolists as any man. But one case of the kind, I believe, is known. Where is that? Far in the interior where a duty of five or ten cents could not in the smallest degree affect the price. Monopolies, in this free and enterprising country, can never exist to any considerable extent, and they will be of short duration. A high price will have the effect to call forth the efforts of the enterprising—new salt springs will be discovered, and transportation will be facilitated—the price will be reduced—good will come out of evil. Our legislation ought not, in the present case, to be influenced by these cases of complaint, because we are legislating for the nation; and if our laws are particularly prepared for the few exceptions named, they will be illy adapted to the wants and interests of the nation; and, besides, it is a perfect answer in the present case, that our legislation could not afford the relief so much desired.

The gentleman from Georgia, (Mr. WAYNE,) who has just taken his seat, is greatly displeased with the proposition to reconsider the vote of yesterday. He speaks in harsh language, and calls it bargain and sale. Sir, I trust gentlemen will not be deterred from doing their duty by any censure or denunciation from any quarter. Our whole Government, from its commence-

ment to this time, has been a system of concession and compromise. We could not exist if it were otherwise. By compromise, I mean honorable and just compromise—I mean that mutual forbearance and regard to the interests of others which should induce each to yield something of what might seem most for the interests of his constituents. We are legislating for all. The South have called upon us loudly to afford them relief. They complain of great distress. They ask us to yield, to compromise. Distress is comparative, and the relief called for may be questionable—but that the North, the majority, are bound to examine and investigate the subject, I have no doubt. We are bound to examine, because it may be the duty of the North to yield something of their own interest by way of compromise. The various interests of the country are a subject of compromise, and so are the various manufactures of the country. One part of the country produces one article of manufacture, and another part of the country another article. If a reduction of duties be proposed, the whole subject ought to be thoroughly and candidly examined. The subject ought not to be touched under the influence of local or political feelings. The true spirit of an honorable compromise, regarding the good of others as well as our own, ought to influence our conduct. Iron is produced in some parts of the country, sugar in others, lead in others, &c. Shall we repeal the duty, at once, on one of the articles named, because our own part of the country may not happen to produce the article, and, of course, are consumers? If that narrow principle should prevail, we should immediately repeal the tariff on every article. For in the production of what article is one-third of the United States directly interested? We must act upon the principle of mutual compromise, and that liberal principle of political as well as moral duty, which shall induce us to regard the good of others as well as our own.

In application to the subject immediately before us, I do not object to considering the tariff; I think it might be modified, amended, and partially repealed, much for the benefit of all. But this is not the proper course. We should not take one isolated article, and repeal it. By so doing, we should not act liberally, or as statesmen ought to act. I hoped that the tariff would have been modified, and I believe it might, but for the indiscriminate zeal and unwarrantable violence of a part, at least, of those who manifest great hostility against all manufactures. I think nothing is wanting to effect beneficial amendments, but a temper of moderation and forbearance which will result in mutual compromise.

It has been urged with warmth by a number who have spoken upon the subject, that salt is a necessary of life, used by the poor as well as the rich, and that on that account the duty ought to be repealed. It has been the wisdom and policy of all civilized nations to produce, if possible, within their own country, the necessaries of life. Is such policy questionable? Our own wants and distresses, and especially the distress of the poor for salt within the recollection of some gentlemen who now hear me, ought to be a conclusive answer upon this point. The duty paid upon salt for a number of years past, has not increased, although the number of inhabitants has doubled. The manufactories have increased as fast as the people. Destroy these manufactories, and the price of salt would not be diminished, even in time of friendly intercourse with foreign nations, because present prices would not more than pay a reasonable freight, and, if twice the quantity were imported, it could not be brought in ballast, as at present, for little or no compensation; nor would merchants consent to do it, were it not for their manufacturing competitors. But suppose any interruption of our friendly relations should occur, what would then be our situation? Rich and poor, but especially the poor, must suffer as they have done for the want of salt. As an independent nation, we ought not to be subject to such casualties, but we ought to have the means of subsistence within ourselves.

I am ready at any time to examine and revise the tariff. I have no doubt it can be improved; but I protest against taking a single article. No portion of the country has been (in my opinion) so severely taxed as that which I represent; and no interest so severely taxed as the navigating interest. Shall they have no relief? Is salt the only article affecting manufactures, worthy of our notice? I have always believed that we could easily ameliorate the political tariff of 1828, without injury to any interest.

Salt is an essential of life. The importance of its manufacture cannot be questioned. The greater part used is now manufactured in this country. The manufactories are increasing and improving. The price of salt, owing to the competition of manufacturers and importers, is kept pretty steady and low, and will be gradually reduced. I trust, under such circumstances, we shall not repeal the duty on salt, and that the vote of yesterday, which I think passed without mature consideration, will be reconsidered.

Mr. VINTON said: After the repeated decisions of the House, during the present session, against the reduction of the duty on salt, I must confess I did not anticipate the vote of yesterday, on that branch of the amendment of the gentleman from South Carolina (Mr. MCDUFFIE) to the bill then under consideration. It was my intention to have given a silent vote on that bill; but considering that proposition to be a blow struck at the whole system of domestic industry, dependent as that system is, and ever must be, upon all its parts for support, I cannot refrain from saying that that vote did not merely surprise me, but filled me with alarm for the safety of the manufacturing interest in

general. Could I have at all anticipated the result of the vote then about to be given, I should not have permitted it to pass in silence. The only apology I shall now offer for throwing myself upon the attention of the House, is, that some of my constituents have a direct, and all of them an indirect, interest in this question, and they all would, in my opinion, be materially injured by the proposed reduction of duty. I cannot think the extent of the domestic manufacture of salt, and the importance of that interest, were generally understood, or had been attentively considered by the House, before the vote of yesterday. In the scale of importance, I think the manufacture of salt stands decidedly next after the great fabrics of cotton, wool, iron, and leather. The annual consumption of salt in the United States does not vary very far from eight millions of bushels. Of this amount, about five-eighths are of domestic production. It appears from the last financial report, that the importation of salt during the year A. D. 1828, which went into the consumption of the country, amounted to two million nine hundred and ninety-three thousand four hundred and eighty-six bushels of fifty-six pounds each. The home manufacture may be set down at about five millions of bushels. The report of the Secretary of the Treasury, made at the present session, on the subject of the manufacture of salt, gives the returns of the home manufacture at three milllion eight hundred and four thousand two hundred and twenty-nine bushels. It will be recollected that, for want of precise information, the amount manufactured in the State of Pennsylvania is omitted. He has, however, collected such data as to justify us in estimating the amount manufactured in different parts of that State at seven or eight hundred thousand bushels. In the tabular statement of the return from Ohio, I notice a mistake has been committed of sixty or eighty thousand bushels; the return of the manufacture in one neighborhood being eighteen or twenty thousand barrels, which in the table is erroneously set down at that number of bushels only. There are in the district that I represent several manufactories not noticed, which must produce some forty or fifty thousand bushels in all. The Treasury Department, I presume, were not apprised of their existence; and there are doubtless many other small establishments in different sections of the country, of which they have no knowledge at that department. The amount of capital invested in this branch of manufacture may be put down at five millions of dollars, all of which, I shall endeavor to show, will be put in jeopardy by the reduction of duty. The domestic is now rapidly gaining ground upon the imported article. The consumption of salt imported into the United States in the year 1796, when the population of the country was only about one-third its present number, exceeded the consumption for the year 1828, that year being the last Treasury return. The importation for the three years preceding 1828 considerably diminished, till, in that year, it fell down to the amount before stated.

How is this fact to be accounted for? Has the consumption of the country diminished in this necessary of life, while its population has been increasing? The true solution is, that the domestic production has been rapidly increasing, and by its competition pressing the foreign salt into narrower limits, or driving it out of market. The effect of this competition is to cheapen the price of the foreign article. It is a consideration of much importance, that the manufacture of salt is more generally diffused through the country than any one of the great interests, the protection of which has engrossed the attention of Congress. Nature has so distributed her bounties in the diffusion of the sources of this branch of manufacture, that no considerable section of the country need be dependent upon another for the supply of this necessary article of human subsistence.

Massachusetts, New York, Pennsylvania, Virginia, and Ohio are the States that take the lead in its manufacture. But there is scarcely a State in any section of the Union, that does not manufacture it to a greater or less extent. On the whole line of our seashore, and especially along the coasts of the Southern States and Florida, great natural facilities must everywhere exist for its production, while the interior is supplied with inexhaustible subterranean springs of salt water. Permit me, sir, to direct your attention to the state of this manufacture in the different districts of country where it is carried on, and see whether it can be sustained under the proposed reduction of duty. Among the New England States, Massachusetts is the most deeply interested, having near two millions of dollars invested in that branch of business. The document before mentioned shows that it is there barely a living business, the profits being reduced, at least, to a level with labor in other employments.

The proposed reduction must, therefore, inevitably ruin the manufacture in that section of country. How will it be in New York, where the manufacture is carried on more extensively than in any other part of the Union? The same document also shows that it is with difficulty the manufacturer can sustain himself. I understand the domestic salt finds its way into the city of New York, and is struggling with the foreign production for that great market.

The domestic competition has so reduced the price, that imported salt will not bear the expense of freight, and comes in almost wholly as ballast; and, coming in this way, it pays little or no freight.

Suppose, sir, you reduce the duty to ten cents, how would the matter stand between the domestic manufacturer and the importer?

The average value of foreign salt is set down in the commercial report at eight cents per bushel, which, from the best information I can get, is at least its full cost abroad; duty, ten

cents; making the cost, independent of freight, eighteen cents. The cost of production at the New York works is eight and a half cents; duty to the State, twelve and a half cents; cost of barrels, five cents per bushel; making the cost twenty-six cents per bushel when ready for market; making a difference in cost, independent of freight, of eight cents per bushel in favor of the importer. The foreign salt comes in bulk as well as in ballast, thus saving the expense of barrels. But the domestic salt has not the advantage of going to market as ballast—it must pay freight and tolls on the canal, and freight down the Hudson to the city. Is it not apparent that, in this state of the trade, the foreign salt would drive the domestic out of the market of New York, and transfer the theatre of competition from the city to the very doors of the manufacturer, and, in any great revulsion of trade, break him down even there?

Permit me, sir, to present this operation in another aspect. The foreign and domestic salt meet and enter into competition in the city; the foreign would pay a duty of ten cents, and the latter of twelve and a half cents per bushel. I say he would pay it, because to the manufacturer it is precisely the same thing whether he pays that sum into the Treasury of the State of New York, or into the Treasury of the United States. He would pay, then, two and a half cents per bushel more duty than the importer. The cost of the foreign article being only eight cents, the difference is thirty-two per cent. on that cost, and is exactly the same thing as if a discriminating duty of thirty-two per cent. were imposed in favor of the importer of the foreign product. It is needless to say that this great and valuable concern must sink in that State, if such an advantage is given to the foreign over the domestic product. The competition is now so closely contested, that the consumer of foreign salt is, in point of fact, relieved from the payment of freight. But suppose the duty reduced, and the domestic manufacturer broken up, what, then, would be the course of trade? The importation would then become a regular business, and salt could afford to pay freight.

A part of the navigation of the country would go into the salt trade for the freight. The consumer would pay ten cents less duty than before; but he would pay ten cents more for the freight, and consequently would find himself precisely where he now is, with this important difference—he has annihilated a large amount of capital, and lost a valuable domestic market. Complaints have been made here of the duty paid to the State of New York by the manufacturers, and they who make them would compel her to repeal it. I understand the duty is pledged by the constitution of the State to the payment of the canal debt, and is therefore immutable, and not under the control of her Legislature. I do not think it a just subject of complaint, so as to justify us in enacting laws to bear upon that fund and upon the constitution of the State. It ought to be borne in mind that the New York Canal was the first great enterprise of the kind undertaken in this country. It was important to give stability to the credit of the State, and nothing could more effectually do that, than the provision in the constitution. The rest of the country, surely, owes that State something for the experience we have all acquired at her expense, and for the moral influence she has spread over the Union by her example. Nor ought the multiplied benefits that almost every section of the country derives from her canals, to be wholly forgotten here. Passing on from New York to Pennsylvania, we find her salt manufactories situated in the western district of that State, and directly on the line of the canal now constructing over the Alleghany mountains, to unite the waters of the Atlantic with those of the Ohio and Lake Erie. The cost of production is supposed to be about twenty cents, say twenty-five cents per bushel, including the barrel.

There can be but little doubt that if the present duty is retained, the salt of western Pennsylvania will, so soon as this canal is opened, compete with the imported article for the market of Philadelphia precisely as the salt of western New York now does for the market of the city of New York. Should this be the case, the tolls and transportation arising from the business will be of no inconsiderable importance to that State. It is therefore the undoubted interest of Pennsylvania to sustain and foster its manufacture? Going still further west, the principal seat of this description of manufacturing interest in that section of the United States, is on the banks of the great Kenhawa, in Western Virginia. Manufactories on a small scale are found on the Ohio, the Muskingum, and in many other parts of the western country. The manufacture on the Kenhawa amounts to about a million of bushels per annum. I believe the production has, under peculiar excitements, gone much higher than that amount, reaching a million and a half; but the result was a very general bankruptcy of all who were engaged in the business. Taking all the manufactories in the western country, in the aggregate, the average cost of production to the manufacturer may be set down at about twenty-five cents per bushel, when packed in barrels ready for market. Let the duty on salt be reduced to ten cents, cost of foreign salt eight cents, freight at half the cost, say four cents, and the cost of foreign salt in New Orleans would be twenty-two cents per bushel. The cost of production at the door of the manufacturer, when ready for market, would be, at least, equal to the cost of the foreign salt in New Orleans to the importer. Now, sir, permit me to inquire, how would this trade operate in that state of things? In the first place, the foreign salt is considered the better article, and, consequently, would take possession of the market at the same price. In the

next place it becomes material to look at the geographical position of these manufactories, their markets, and the means of transportation. These establishments are situated on the very margin of the navigable waters leading into the Mississippi.

Their products descend the Ohio, and ascend its tributaries, penetrating into the heart of Indiana, Kentucky, Tennessee, and I believe into the country bordering on the Mississippi, meeting the imported salt and competing with it on that river. The transportation is now mainly by steam. The amount of steam tonnage now very great, is every year increasing, and has a constant tendency to overdo itself. What would be the operation on all that vast theatre that may be denominated the middle ground between the manufacturers of the upper country, and the importer of salt at New Orleans? The descending cargo consists chiefly of bulky agricultural products, while the return freight is composed of manufactured articles, occupying much less space. It is therefore apparent, that, in the regular course of business, and in that state of things to which that navigation is fast approximating, the amount of tonnage required to perform the descending will far exceed that of the ascending navigation. To make up this deficiency of freight, salt would be carried up the river at almost a nominal price; (at least at a freight not exceeding the price of downward freight;) and coming into New Orleans in the first place as ballast, and then up the Mississippi and Ohio from a similar necessity, there can be nothing plainer than that the manufacturers would be overwhelmed with a flood of foreign salt at their very doors, whenever the steam navigation went a little beyond the business of the country, which an active competition gives it a constant tendency to do. It is needless to add that the manufacturer must sink under this state of things, and, when once down, could never rise again. These manufactories are indeed far in the interior; but, in the present state of steam navigation, distance is almost annihilated, and the perfection to which that navigation will no doubt shortly arrive, will place them in almost the precise situation they would be, if a navigable arm of the sea put up to them from the Gulf of Mexico. I am fully convinced the proposed reduction of duty would greatly endanger, if it did not destroy, the capital now invested in that section of the country. While the farmer would lose the valuable market which these establishments create for his products, he would, at the same time, be compelled to pay more for his salt than he now does. To the manufacturer, the capital employed would become in a great degree valueless; he could not convert it to any other use, as some gentlemen seem to imagine. For example, he has a well perforated into the bowels of the earth, through solid rock, three, four, five, and even six hundred feet, until he strikes the saline water. What could he do with this expensive hole in the earth? To what other business or use could he transfer it? Certainly to none.

While speaking of the salt manufacture in the West, I beg leave to direct your attention for a few moments to a topic of a local character, connected with this subject. The district of country along on the Ohio, and particularly at Cincinnati and its vicinity, is largely engaged in the export of pork to New Orleans, and from thence to other ports. The salt manufactured in the interior does not answer the purpose of pickling for exportation as well as the coarse imported salt. On that account, pork goes to New Orleans, imperfectly pickled, where it is repacked in foreign salt at a considerable charge. Now, sir, I noticed that my colleagues from that immediate neighborhood voted, yesterday, to reduce the duty on salt, thinking, no doubt, the reduction would have the effect of transferring the business of packing from New Orleans to Cincinnati. The object is certainly very desirable. But, if my colleagues will pardon me for presenting a single consideration to them in particular, I think I can satisfy them that the proposed reduction of duty would not effect their object. Let the duty be reduced ten cents, and we will suppose a corresponding reduction would take place in the price of salt. You have changed the actual price both at New Orleans and at Cincinnati; but the relative price remains unaltered.

The packer, who pickled a barrel of pork in foreign salt, at Cincinnati, New Orleans, or Boston, would pay precisely the same amount of duty, whether that duty be ten or twenty cents. By the reduction, therefore, the packer at Cincinnati gains no advantage over the packer at New Orleans. The relative price must change in favor of Cincinnati, before the packer can have any inducement to transfer his business from New Orleans to that place. If you can practically annihilate the space between the two cities, or make an approach to it; in other words, if you can get rid of the burden and cost of transportation between New Orleans and Ohio, you will then change the relative price of salt, and effect your object. As things now are, the packer must pay the freight of his salt up the river, and then pay freight back again on the same salt after it is converted into pickle. To avoid the payment of these two freights, it is his interest to use the foreign salt at New Orleans instead of Cincinnati. The proposed remedy most obviously does not reach the evil.

It is my belief that domestic competition reduces the price of salt, everywhere, below what it would be if it came into the country duty free, without that competition. From the close of 1807 to 1813, salt paid no duty, and I am informed that during that period the price was higher than it has been since, and more fluctuating. I have but one consideration more to present, and that addresses itself to the good faith of the nation. It has been said the duty is a war duty, and ought to be repealed on that

account. Such is not the fact—the act of 1813 expired of its own limitation a year after the war, and was revived in 1816, a period when the revenue of the country was prosperous and abundant beyond any precedent. That was the year when the foundation was laid of the whole protective system, and this duty must have been imposed as a protective duty. The duty has existed now for seventeen years without interruption, and in the mean time a large capital confiding in the faith of the Government, has gone into the manufacture. To force them to change their occupation, is, in my opinion, not only impolitic, but cruel in the extreme.

Mr. DODDRIDGE said he must ask the attention of the House to a few remarks, by way of explanation. They will be brief, (said Mr. D.,) as the state of my health at present would forbid an exertion, were I disposed to make one, and as the argument of my friend from Ohio (Mr. VINTON) has nearly exhausted the subject.

I must confess that a want of that knowledge of financial detail which more experienced members of this body possess, led me to vote yesterday evening for the proposed reduction of duty on salt. I did this on account of the manifest urgency of southern members. My mistake is not to be wondered at, when it is considered that, though not a young man, I am a young member of this House, and that neither my private pursuits nor public duties ever before imposed on me the necessity of acquiring that intimate acquaintance with the operations of our commercial and fiscal systems, and their minute details, which are necessary to the merchant, the manufacturer, and the statesman. My attention heretofore has been turned to the general principles alone, on which our systems of revenue and protection are founded.

Perceiving the great excitement of hope on one side, and alarm on the other, produced by the vote which I proposed to reconsider, I have availed myself of the short time that has elapsed, to consult some of the public tables and official documents that have a bearing on the subject; and I am now satisfied that a reduction of the duty in question, at the present time, would be prejudicial to the public interests, and, in a peculiar manner, destructive of those of my constituents.

I did not know, before now, that a capital of so many millions was vested in the home production of this article of first necessity, nor that, of the whole amount of salt imported from other nations, three-fourths parts come from the ports of Great Britain and her dependencies—from those very ports which are sealed against the introduction of our breadstuffs and other provisions. From all other nations we import into the whole United States a quantity but little exceeding the produce of the Kenhawa works.

I can recollect to have seen in my county twelve dollars given for a bushel of alum salt. I recollect when the price of that article was reduced to eight, and to five dollars, by the improvement of our mountain roads. To the best of my recollection, the price stood at about three dollars, until the Kenhawa and other works displaced the foreign article from our markets and consumption. I remember the time when twenty-four bushels of wheat would not pay for more than one bushel of alum salt; and I have seen the price of salt so reduced, that a barrel of it would not pay for a barrel of wheat flour. And this great and beneficial change is the result of improvements in the modes of conveyance, and of the protection afforded to home production by tariff laws—by the imposition of reasonable protecting duties on foreign importation. Were we to exclude foreign salt altogether, we could produce the quantity necessary for the whole consumption, without inconvenience. In the western country the exclusion of foreign salt has been so effectual, that, in more than half of my district, I do not suppose that one bushel of foreign salt has been consumed within the last fifteen years. The reduction in price would continue, except at a particular place, if foreign salt were entirely excluded. Home producers are so numerous, and so scattered over the country, as to create that competition which is the life and soul of all manufacturing and producing operations.

Nor is this reduction of price the only benefit the farming and other consuming classes have derived from the protection given to home producers. The home manufacturer produces a constant supply, to be had in any quantities, large or small; and as the produce of our farms and shops enters into the consumption of the manufacturers of salt, this indispensable article of daily use can be had at every village, at any time, and in any quantity, and can be purchased and paid for, at a reduced price, by our own produce or manufactures. Salt has thus become a constant article of trade and exchange in the interior commerce of the country. Nothing can be more obvious than the truth that these incalculable benefits are the fruits of our system of protecting duties, in modern times called the American system. And shall I be asked to surrender these advantages, in order to admit the productions of that country which excludes ours, by a permanent system from which she never relaxes, except when compelled to it by necessity?

The principal staples of my district are bread stuffs, beef, pork, and manufactured articles. These are, by England, excluded from her West India ports in our neighborhood, while the friends of free trade, as they style themselves, would import from those places at which our pork and beef are prohibited, the very salt with which the prohibited article is cured. Such a trade would not be reciprocal, and would be ruinous to western agriculture. I admit that the immediate effects of a reduction in the duty on salt would be a diminution in the price of the article. This diminution in price would continue until our own establishments would be

ruined and abandoned, and our dependence on the foreign English supply again restored, when the price would be increased, as formerly, at the pleasure of foreigners, and when cash would be demanded in payment, and the supply rendered precarious by all those accidents and vexations attendant on foreign commerce.

Those who now live by the manufacture of salt have their capitals vested in their wells and furnaces, their kettles, and other implements and fixtures, and in sums necessary to carry on their business. Reduce the duties on foreign salt, and that article will ascend the Ohio at such reduced prices as to fall below the actual cost of producing it at home. When this is done, the owners must abandon their works, and vest their capitals in other pursuits. For a short time, our supply from abroad might be regular and cheap, and might continue so until the domestic manufacture would be everywhere abandoned; and then we would be inevitably compelled to purchase at higher prices, in an uncertain market, for ready cash, instead of articles of domestic growth and the fruits of our own labor. If we wish to secure our salt at low prices, we must discourage importation from abroad, and encourage that competition at home which has succeeded to the utmost of our wishes.

The gentleman from Georgia (Mr. WAYNE) has spoken of our system (including, I suppose, the motion I have had the honor to submit) as one of "bargain and sale," and having a necessary tendency to corruption. I understood him as having particular reference to the speech of the gentleman from Massachusetts, (Mr. GORHAM;) but, whether to that gentleman or to myself, inasmuch as the gentleman from Georgia concluded by saying he meant no disrespect, I suppose I have no cause to complain. These words, therefore, of "bargain and sale," are not understood as conveying any personal reproach, in the vocabulary of the day. But, whatever the gentleman from Georgia may think of my course here, or by whatever epithets describe it, that matters me but little, as neither the opinions nor epithets of others can "pick my pockets, or break my shins."

According to the doctrine of some, all concessions and compromise in legislation are immoral; whereas it is a universal maxim, acknowledged by the wise in every country, that all wise and beneficial legislation must be the result of mutual concession, of mutual forbearance, and of compromise. Where a country is so large as to embrace a great variety of climate, of soil, and of pursuits, it is impossible to legislate wisely, without much consultation on the separate interests of each. In seeking to render our agriculture and manufactures independent of foreign intermeddling, it was thought necessary, in the infancy of those interests, to foster and encourage them by the imposition of high duties on such articles imported from abroad as might come into advantageous competition with them in our consumption. To afford this universal protection has been the aim of this Government, from the year 1789 to the present time; and no portion of the United States pressed this policy sooner, or more earnestly, than the southern section.

Yesterday evening, it was plainly discoverable, that, should we give up the protection of the great capital vested by New England and New York in the manufacture of salt, we would be in danger of losing the efforts of those States in furthering that protection which is indispensably necessary for our interests in the West; and in so far as, on that account, we may be more disposed to protect our eastern friends, we are to meet the censures of the South. Like the gentleman from Vermont, (Mr. MALLARY,) I understood the gentleman from Georgia, (Mr. WAYNE,) as holding out a hope to some of the friends of the tariff, that, if they would persevere in the reduction of duties on salt, he might be induced to vote for the bill under consideration, the passage of which every real friend to domestic protection has so much at heart, and to which the gentleman from Georgia had appeared to be so much opposed. The gentleman from Georgia, however, says he was misunderstood in this respect, and I therefore do not press the remark further than to say, that, understanding the gentleman when he was up, as throwing out this inducement, I did not censure him for that course. I thought it perfectly fair, but considered it as very inconsistent in him to censure in others the very course which I thought him openly pursuing himself. This opinion I cheerfully withdraw, because the gentleman's explanation removes the grounds of it, and convinces me of my mistake as to him.

But, however censurable it may seem in the eyes of some of our opponents, that, in legislation, members should concede any thing of their views, measures, and wishes to others, in return for mutual concession on their part, it is evident to me that some of our opponents do not concur in this opinion, but actually practise what others of them seem openly to condemn. This morning, a friend of mine, whose seat is near me, (Gen. FINDLAY,) and who, in relation to the protecting system, differs from me in nothing but the policy of reducing the duties on salt, informed me that one gentleman, (whom he named,) if not two or three among those opposed to us, would vote for our tariff law, if we would retain in it the clause reducing the duty in question; and that gentleman will so vote, and with that expectation. I did not inquire how my friend obtained this assurance. I suppose he had it from him, or those alone able to give it; and, if so, I looked upon it as fair play. It would be the result of a calculation of the choice between supposed evils.

I feel compelled to take a respectful notice of the remarks of a gentleman from North Carolina, (Mr. BARRINGER,) in relation to my vote yesterday evening, and my motion to-day, which has given rise to the present discussion. That gentleman has made an allusion to the

kiss and treason of Judas. I am at a loss to know whether he meant to be witty or satirical. If wit was his object, he failed; for I could not perceive that a single smile was elicited in the hall. Should I presume, as that gentleman did, to offer an advice not asked for, I would say, that, whenever he attempts to extract his sallies of wit from a record the most awful and instructive that the mind of man can contemplate, he will exhibit himself in bad taste before a Christian audience. But if satire was intended, and the gentleman meant both to assail me, and, at the same time, to give us a sample of his magnanimity, he was signally successful. Having cast his arrow across the hall at me, he most magnanimously demanded the previous question; which would shut my mouth from this explanation, and from a reply.

Mr. THOMPSON, of Georgia, rose, and observed that in all the debate he had heard nothing new on the question; and, as further debate could be of no use, he moved to lay the motion for reconsideration on the table, and demanded the yeas and nays on the question; but withdrew his motion at the request of

Mr. MCCOY, who promised to renew it when he had made a few remarks in favor of adhering to the reduction of the salt duty. Having done so, he renewed the motion made by Mr. THOMPSON; and

The question being put on laying the motion to reconsider on the table, it was decided in the negative—yeas 95, nays 102.

Mr. POLK made some remarks in favor of the reduction, and explanatory of the history of the duty on salt laid from time to time; and believing that enough had been said, *pro* and *con*, and as much as the time of the House could afford, he concluded by calling for the previous question.

Mr. WAYNE moved a call of the House; but the motion was not sustained.

The motion for the previous question was seconded by a majority of the House; and

The question being taken by yeas and nays on the call of Mr. CAMBRELENG, it was carried —171 to 25.

The main question (being on the motion to reconsider the vote on the amendment reducing the duty on salt) was then put, and decided in the affirmative by the following vote—yeas 102, nays 97.

The question then recurring on the amendment proposing to reduce the duty on salt,

Mr. MCDUFFIE modified the amendment so as to defer the reduction to fifteen cents to the 1st of September, 1831, and the reduction to ten cents from and after the 31st of December, 1832.

The debate was now renewed, and continued with unabated animation and occasional pungency during several hours.

Messrs. CAMBRELENG, DRAYTON, BARRINGER, ANGEL, SEMMES, CRAIG, of Virginia, JENNINGS, WILDE, and LEA advocated the amendment, and the propriety of reducing the duty; and Messrs. SPENCER, of New York, MALLARY, STORRS, of New York, IRVIN, of Ohio, TEST, DAVIS, of Massachusetts, and REED opposed the amendment for various reasons; some, because they were opposed to the reduction as impolitic, and would not diminish the price to the consumer; others, that it was improper, connected with this bill; others, that it would put the bill itself in jeopardy, though they were not opposed to the repeal of the duty, if it were an unconnected proposition. For the reason last mentioned, Messrs. RAMSEY and MILLER stated they should vote now against the amendment, although they yesterday voted for it.

[The following were the remarks of Messrs. ANGEL and LEA:]

Mr. ANGEL said he must crave the indulgence of the House for a few moments, while he would state briefly the reasons which would govern his vote on this occasion. I am (said Mr. A.) the more disposed to do this, because I am constrained to differ from many of my colleagues; those with whom I have generally acted, whom I greatly esteem, and for whose judgments and opinions I entertain the greatest respect. Under these circumstances, my course may seem singular to some, and I therefore desire to state the reasons which not only induce, but oblige me to take it.

My first objection rests upon general principles. The real, absolute necessaries of life ought not to be taxed, unless there be some strong and urgent necessity for it; and then no longer than the necessity for the tax continues. Here the tax on salt is unnecessary; the revenue is abundant without it.

Salt is an absolute, natural, and real necessary of life—other things may, from use, be thought necessary, as tea, coffee, sugar; but salt is, in its nature, a real necessary to life—and one without which life and health cannot be maintained. It is absolutely necessary to animal life and health. Horses, cattle, and sheep must be fed with it; and immense numbers of them die yearly for the want of a sufficient quantity of it. On such an article, is it proper then to retain a duty of twenty cents on a bushel? More salt should be used; more would be used if it was cheaper, and it should be made as cheap as possible, by freeing it from taxation.

The poor man, for himself, his wife, and his children, must consume of salt, and pay of his tax, as much as the rich man, for himself, his wife, and children—and as the poor man's family is often the most numerous, he must pay the most of the tax. You make him pay the more, exactly in proportion as he is less able than the rich man. This is contrary to all principle. Taxes should be levied on men according to their ability to pay. Is it too much to relieve the poor man, by reducing his tax at first to fifteen, and afterwards to ten cents on a bushel? I do not say these things to court popularity with the poor. I say them because eternal justice proclaims them to be right, whether they be popular or unpopular.

A few days since, we passed a bill reducing the duties on tea and coffee, because these are supposed to have become necessaries, and are used by the poor as well as by the rich. There were only six votes against that bill; and will any gentleman tell me that salt is less a necessary than tea, coffee, or cocoa, or less consumed by the poor?

On principle, therefore, salt, as a natural necessary of life, ought to have been taxed twenty cents a bushel, or two or three times as much as its foreign cost; and the reduction of the tax to ten cents a bushel is but slow and partial justice to the public, as the tax will still be equal to the expense of making a bushel of salt at the Salina, or any good salt works.

It is said that the reduction of this salt tax will be a serious injury to the State from which I come. If I believed this, I would be the last man to vote for it. I can have no inducement to wrong that State—my home is there—my friends are there—all my interests and all my attachments are there—and I can only wish her prosperity. I hope to show, as I am satisfied is the fact, that the State cannot lose by the reduction of this tax, which will profit every citizen of that State.

At present, New York herself levies an excise duty of twelve and a half cents on every bushel of salt manufactured at the salt works in that State. My colleagues allege that, in this manner, the State, by a tax upon her citizens, raises a revenue of about one hundred and fifty-seven thousand dollars towards her canal fund; that, if the United States reduce their duty on imported salt to ten cents a bushel, the State, in order to save the manufacturer, will be obliged to reduce her duty on domestic salt, and, instead of this revenue, impose a direct tax to pay her canal debt. Every part of this deserves examination.

If the United States reduce the duty on this article, it will save exactly so much to every citizen who uses foreign salt; and the State will undoubtedly amend her laws and constitution so as to reduce her tax on salt, which will be a saving to that amount to every citizen who uses domestic salt.

If by these means the canal fund loses one hundred and fifty-seven thousand dollars, do not the citizens of the State gain it by their exemption from the payment of the tax? Because, after all, very little of this salt tax is collected from the citizens of other States. Is it not nearly all paid by the citizens of New York? Do they not consume more than nine-tenths of all the salt manufactured in the State? What can a State gain by taking from the citizen his earnings and property by taxation? When gentlemen talk of enriching the State by taxing the people, do they think that taxes do not make the people poor? If the salt tax costs the people who pay it nothing, by increasing it four or five fold, you might, according to their argument, make the State very rich, and pay off the canal debt in a few years, without injury to anybody.

Let us look at the other side of the picture—take away the tax, the doing of which, gentlemen say, will impoverish the State, and then see what will be the condition of the citizens. If the State loses one hundred and fifty-seven thousand dollars by the abolition of the tax, it as certainly follows that the citizens gain the same amount. The State is the corporation—the citizens are its members; and when the members are required to pay a sum for the common benefit, the share required of each should be in proportion to his amount of stock in the company. This is plain; it is every day's practice in the pecuniary regulations of corporate bodies; and what Government would ever charter a company with authority to compel the holder of one share to pay as high a tax as he who holds twenty shares? This is the operation of the present salt tax. The poor man not worth a dollar, pays as much towards its aggregate amount as the wealthiest man amongst us.

If, as is conceded on all hands, the State must and will reduce her salt tax if the United States reduce theirs, how can the manufacturer be injured by it? Foreign salt will cost abroad some six or ten cents; to this there must be added freight, insurance, and importers' profit, and the United States duty will still remain ten cents. The price of domestic salt, free from the State tax, would be only ten cents or less at the salt works. It is therefore utterly impossible that the foreign salt should ever compete with the domestic salt, unless the State should obstinately refuse to relieve its citizens from this burden—and there is not the least foundation for supposing that the State would delay to perform a duty so agreeable and profitable to her citizens.

If the State tax on salt was reduced, (as it would immediately be in effect, and shortly in form,) the salt manufacturers could sell salt at the works for ten cents a bushel, instead of the present price of twenty-two and a half cents, including the State tax. More of it would be carried east, and sold in Vermont, and in the Hudson River and Mohawk counties—more would go west, on the canal, and find a market in west Pennsylvania, Ohio, Michigan, and Canada—more would go north, on the canal to Oswego, and find a market in our northern counties and in Canada. In this manner, the salt market for our manufacturer would be enlarged, and his profits increased; while the price to consumers would be reduced, and the increase of transportation of the salt, and of the pay for it on the canals, would, by the increase of tolls, go far towards remunerating the canal fund for the loss it would sustain by a reduction of the salt duty.

At the time the constitution of our State was amended, and this salt tax was pledged to the canal fund, the canals were unfinished; and I do not war with the convention for their en-

deavors to secure the credit of the State. Still the people, many of them, objected to the constitution—they demurred to the salt tax. At that time I was with them; and can speak of the opinions of many in the western part of the State, from personal observation. The constitution was presented as a whole, and the people were obliged to adopt it as a whole, or reject it altogether. It contained many provisions which they desired to secure; they wished to abolish the old council of appointment, to reform the judiciary, and to extend the right of suffrage. They were told, and regarded it as a pledge, or promise, that the canals would go on successfully, soon be completed, and the tolls would be more than sufficient to extinguish the debt; and that, as soon as a little experience could be had on the subject, this salt tax should be reduced or repealed. They believed this, and adopted the constitution; but if they had been told that this tax must be perpetual, they would have rejected the tax and constitution together. If this tax of twelve and a half cents on a bushel of salt, in favor of the canal fund, had been the only amendment proposed to the constitution, would not the people, I ask my colleague, have rejected it by an almost unanimous vote?

The State salt tax, like the United States salt tax, is very unequal and unjust—a repeal or reduction of both is called for by the interest of the people.

The New York canal debt is the debt of the whole State. The salt tax there is thrown into the canal fund to pay that debt. But the State salt tax is not paid by all the people of the State, but only by about two-thirds of them. Of these, many are obliged to pay who use the canals but little, and who are rather injured than benefited by them. The other third of the population of the State consumes imported salt; pays nothing into the canal fund; but pays twenty cents a bushel on salt to the United States. Thus the people of that State are taxed, (two-thirds of them,) say one hundred and fifty thousand dollars towards the canal fund; and to enable the State to tax these two-thirds to that amount, my colleague would compel the other third to pay twenty cents on every bushel of salt they consume, into the Treasury, to be paid out in internal improvements in other States. Here is a double taxation; and one part of the State is to be employed as the instrument to fix this tax on the other, instead of joining, as I think they should, to reduce both taxes. If the tax were reduced, all would get their salt cheaper than they now do. If the United States tax on salt be reduced ten cents, that of the State will follow, and every consumer will obtain his salt ten cents cheaper than he would if the tax were continued. And yet I am told that the people of New York will be injured by reducing their taxes! I have yet to learn that men grow rich by being taxed, or that they become wealthy by having their money taken from them. I have heard much said upon this floor in favor of heavy taxation—I have heard gentlemen say that it would replenish the stores and increase the wealth of the country; that the individuals composing the nation would be enriched and rendered happy by it. It would seem from their doctrine that an extravagant system of taxation was a kind of *cornucopia* provided by the magic of Government, to supply the wants and gratify the avarice of every class of citizens. Sir, I cannot understand this kind of logic; but when I am brought to believe as those gentlemen do, then I will vote with them, and not before. I have spent my days with the people of New York, and will never injure them. I know they do not deserve it. They have borne burdens without murmur. Can any man complain that I injure him, when I wish to reduce his taxes?

Sir, I represent a farming district. My colleague (Mr. STORRS) seemed to think that the gentleman from New York (Mr. CAMBRELENG) knew nothing about the interests of the agriculturists, because he comes from a city. I am, in part, a farmer myself—I was brought up at the plough—I know the worth of a dollar, for I have labored with my hands to earn it. Through life my associations have been with those who procured their livelihood by honest labor—my life has been spent with a people who earn their bread by the sweat of their brow, and I know and understand their feelings and their interests. My constituents are industrious farmers—they pursue the path of honesty, and avoid all juggling speculations. They pay their debts and their taxes too; and they well know what labor it costs to meet all the exactions upon them. Such are the men for whom I go, and such are the men whose interests should be protected—and I know of no better way to protect them, than to relieve them, if I can, from this taxation.

This State salt tax is peculiarly oppressive upon my district. That district can use the canals but very little, and they are believed rather to have injured than benefited it. Be this as it may, such is the opinion of many good judges of the value of property; and it is certain that many business men have been drawn from that county to the canals, with considerable capital; and that the prices of real estate, and other articles in the market, have greatly depreciated. Meanwhile, that district, which is a single country, consumes more than thirty-five thousand bushels of domestic salt, and thus pays into the canal fund a tax of from four thousand dollars to six thousand dollars a year; and at the same time every citizen of the county who transports any one article on the canal, must pay as great tolls as those who, residing elsewhere, either enjoy greater benefits from the canal, or pay nothing of this salt tax. My constituents are willing to pay any rate of tolls necessary to the canal fund, so far as they use the canal—they are willing to pay for whatever they use; but it is unjust to tax them with burdens which, though beneficial to others, are only injurious to themselves. And I wish

to reduce the United States tax on salt, as the only and best means of procuring that reduction of the State duty on salt, which our agricultural and laboring population everywhere desire and deserve.

But, sir, my colleague, (Mr. STORRS,) to deter the New York delegation from voting for the reduction of this salt tax, declares that that reduction will drive the State of New York to a land tax, to supply the place of this salt tax to the canal fund. What an odious argument! What is this but to say to the citizens of the State of New York, if you rid yourselves of the salt tax, the yoke of a land tax shall be fixed on your necks? Shall I use such an insulting argument to the citizens of my district? Shall any man say to them, you shall bear either a salt tax or a land tax? Sir, they ought to bear neither.

And, sir, is it true—is there a shadow of truth in it, that the loss of this salt tax will ruin the great State of New York, and drive her to a land tax to support the Erie and Champlain Canals? These are the best canals in America; are located on the easiest and cheapest routes—connect the most extensive natural navigations on this whole vast continent, traverse the most fertile districts, and bear on their bosoms the industry and products of every clime, and of millions of people. After boasting, as he did, a few days since, of the utility and profits of these the most useful works of the age, shall he tell us, and ask us to believe him, that these canals, such as I have described them, cannot support and pay for themselves; that they are so lame, impotent, and feeble, that the loss of this excise of twelve and a half cents on a bushel of salt, extorted alike from the rich and the poor, will force New York to burden her citizens with a land tax to support them? What, sir, a direct tax to support the best canals in the world! Is this true? How does it tally with that gentleman's arguments in favor of internal improvements? Did he not, a few days since, entertain us with a discourse to prove how very profitable these works are, and how soon they would pay for themselves? And now, forsooth, the State of New York is to be ruined by the reduction of the tax on foreign salt to ten cents, which still leaves the enormous duty of one hundred per cent. on that necessary article of life.

But let me quiet the gentleman's unhappy alarms. He has himself hinted at the manner in which, if the State lose the salt tax, it can easily, and without injustice, supply the deficiency of the canal fund. That gentleman has told us that, if the account should now be taken between the New York canals and western Vermont, western Pennsylvania, Ohio, and Michigan, they would be found indebted to New York for the reduction which her canals have effected in their transportation, "thousands, and hundreds of thousands." Yes, sir, I appeal to every honest man, let him reside where he may, ought not they who enjoy the benefit of these canals to pay for their construction and repair? Would any man partake of the banquet, and meanly skulk off and leave others to pay the bill? If Vermont, Pennsylvania, Ohio, and Michigan have had, and will forever have, profits, "thousands and hundreds of thousands," as my colleague (Mr. STORRS) says, in their cheaper transportation, would they—could they decline such a moderate increase of the canal tolls as would supply this deficiency, in the event of there being any? I think they could not—my constituents will freely pay the increased tolls—it would be a pitiful increase. The tolls are now more than eight hundred thousand dollars, and an increase of one dollar and fifty cents on each hundred dollars of the present tolls would replenish the fund.

For these reasons, and others which I cannot now detail, I am of opinion that the salt tax of the United States ought to be reduced, as an act of justice and sound policy to all the citizens of the United States. I believe, too, it will lead to a reduction of the New York State excise on salt, beneficial to all the consumers of domestic salt manufactured in that State, and ultimately extending the market for that article, and, therefore, beneficial to the manufacturers of it.

Some believe that to tax is the best mode to improve the wealth and riches of men; but I believe taxes to be the worst enemies to industry. A tax which indiscriminately presses upon the weak and the strong; which adds to the miseries of poverty; which takes from the food of the hungry, and diminishes the scanty stores of the needy; which lays the widow and the orphan under contribution, and preys upon the substance of the halt, the maimed, and the blind, is unworthy of the countenance of a free and liberal Government. The small sum of twenty cents, exacted by the Government of the citizen, as the price of his license to use a bushel of salt, may appear trifling and of little consequence to gentlemen enjoying high salaries, or drawing ample wages in the service of the Government; but to the poor laborer, whose wages are less than fifty cents per day, this tax is onerous, and he feels and groans under the weight of it. I am not the friend of useless taxation, and so long as I enjoy a seat upon this floor, it shall not receive my support.

These are my sentiments, and I should be a hypocrite if I concealed them. Popular or unpopular, they have their source in an honest conviction of their rectitude. Let them put me up, or put me down, I will abide by them.

Mr. LEA said he did not rise to make a speech, but to ask for the reading of two letters, which he had in his hand, contained in a document reported to this House by the Secretary of the Treasury during the present session of Congress. These letters are from gentlemen of first respectability,* one of them interested in the salt works referred to, and the other intimately ac-

* Francis Smith, Esq. Charles C. Johnston, Esq.

quainted with those concerns. They speak of the salt works on Holston River, in Virginia, and give us some facts worthy of our attention, when honorable gentlemen tell us here that the present duty of twenty cents a bushel on foreign salt is necessary to protect our domestic manufactures, and even argue gravely that salt is cheaper on account of the duty. We are told that some salt works will be destroyed if the duty should be repealed. And what of that? If they cannot make as cheap as others, let them go. Must the whole community bear a grievous tax, in order to keep up a few dull and unprofitable salt works, when there are others in the country that could make more than enough at half the amount of the present duty? What do these letters tell us? One of them says salt is made at about twenty-five cents a bushel, and might be made at twelve and a half; the other says it is made at sixteen or seventeen cents, and might be made for six and a fourth, and the quantity might be extended to meet any demand of the whole Union. One of the letters says the price, at the works, has been, for several years, one dollar for fifty pounds! I live in a country supplied from this source, and know the cost of this same salt as it progresses down the rivers Holston and Tennessee, increasing from one dollar to one and a half and two dollars a bushel of fifty pounds, until competition of foreign and other domestic salt, below the Muscle shoals, reduces the price to sixty-two and a half cents, little more than half the price where it started! Is this no monopoly? Do these works need a protecting duty? Must they have a bounty of twenty cents duty imposed on foreign salt, to keep it from interfering with the market, in order that these manufacturers may be able to sell at a living price? But the friends of the protecting system seem alarmed lest the reduction of this duty should endanger other parts of the tariff. Aye, indeed, is it all of a piece? And are these its principles? and this a specimen of the whole? I am glad to hear gentlemen tell us that this odious salt tax is a true test of the "American system," and let them refuse to repeal this duty, and abide that test. I ask that the letters be read.

The question at length being put on the amendment, it was negatived by the following vote: yeas 98, nays 102.

So the amendment was rejected.

The question then recurring on the substitute to the original bill agreed to in Committee of the Whole,

Mr. POLK called for a division of the question, so as to leave for separate decision the section containing the amendment respecting the duty on iron, offered in Committee of the Whole by Messrs. SCOTT and HOWARD; and, after some explanatory remarks by Mr. P., and some passages between him and Mr. STERIGERE on a point of order,

The question was put on all the sections of the substitute, excepting that above mentioned, and agreed to by yeas and nays: yeas 185, nays 11.

The question then came up on the amendment of Mr. SCOTT, as amended by the proviso of Mr. HOWARD.

Mr. SCOTT defended his amendment against some objections of Mr. POLK.

Mr. WICKLIFFE suggested, that, instead of calling the yeas and nays on both branches of the amendment, it would save time if Mr. SCOTT would move to strike out Mr. HOWARD'S proviso.

Mr. BUCHANAN advised his colleague to adopt this course, for the reason, also, that, by giving up a part, he would be more likely to obtain the other portion of the amendment.

Mr. SCOTT yielded to the suggestion, and moved to strike from the amendment the proviso adopted in committee, on the motion of Mr. HOWARD.

Mr. BROWN opposed making the distinction; and

Mr. WAYNE advocated Mr. HOWARD'S proviso, and opposed the motion to strike it out.

The question being put on striking out the proviso, it was negatived by yeas and nays: yeas 46, nays 140.

Mr. CHILTON moved to include in the amendment imported iron "used for axes, hoes, or ploughs, or for any other purpose of agriculture," and, in support of his motion, said as follows:

Mr. C. remarked that the principles of justice must, as he conceived, belong to one of two classes, either such as were natural and inflexible, being founded in the nature of things, or such as rest upon a civil compact. Now, sir, said Mr. C., I affirm that the principles in this bill involve specifically the distinction I have just alluded to. In order to test them, I propose these two questions to the House: Is it in the power of the Congress of the United States to impose burdens upon their fellow-citizens, and thereby abridge all their pleasures and curtail the fruits of their industry, on mere principles of natural justice? Or have they this power from the construction of an instrument agreed to by the States of this Union, and conferring such a power? None will contend, I presume, that the authority is derived from a natural right. Sir, the very beasts have a right to rove over the plain, to seek for pasture wherever they can find it, and drink of every brook they meet in their way; and are not men by nature as free as they? Surely, sir. And has, then, a collection of men, unauthorized by me, a right to put their hands in my pocket, and take my money, to sustain another who has no just claim to the fruit of my toil? They have not. It is apparent, then, that as this is not a natural right, if it exists at all, it must be acquired. In order to judge whether it has been conferred upon Congress or not, our only resort must be to the charter agreed on by the States, and there we shall see how far this power of taxation is carried. The

question is, what power has Congress on this subject by the Constitution of the United States? It is far from my intention to oppose any constitutionl power, and I do believe that the power to levy taxes with a view to revenue is a constitutional power. Even the much-abused States of North and South Carolina, and Georgia, will not hesitate to make the same admission. They all admit your power to lay taxes with a view to replenish the Treasury. But what is the fact now? I say you have usurped a power never conferred upon you, and which you cannot claim as a natural right—the power of grinding the face of the poor for the benefit of the rich. Regardless of the cries of the unprotected and helpless, you hold over them, without mercy, the iron rod of the oppressor. This, in my opinion, involves the whole principle of your constitutional right, and touches especially a question in relation to the West, which must utterly forbid me to vote for it. I here publicly avow that I believe this House has no power under the constitution to prosecute what is called the protecting system; in other words, that it has no power to thrust its hand into a thousand pockets for the purpose of keeping up the fulness and splendor of one. Sir, permit me to ask what was originally the object of the confederation of these States. Was it that the isolated interest of one single State should predominate over that of all the rest? Surely not. The interests of these States are exceedingly diversified. Their inhabitants are in very different situations, engaged in different pursuits, inhabiting a diversity of climate and of soil. Some parts of our country abound in hemp, others in iron, others in cotton, others in sugar-cane, and you never can fix on a system of taxation in which all will agree, unless it is done under the immediate pressure of an existing war, when sectional interests are forgotten, and all burn with a noble zeal to defend the stars and stripes of the national banner.

The great object of the confederation was to provide for the general defence and common welfare. It never was intended that the majority should oppress and despoil the minority. We have in Kentucky a constitution which guaranties to every individual certain rights as being unalienable, and I, as an American citizen, have a claim to these rights, and may insist upon them in my own case, though all the rest of my fellow-citizens should have given them up. For what were constitutions made? or why do we contend with so much earnestness on this floor, as to their true intent and meaning? Surely the object of them is to protect all. The intention was, that all should equally contribute to the common defence. Was it the object of our Government that the poor shall fight, and the rich roll in luxury? Sir, the poor man cannot get a substitute; he must turn out in his own person; and I know some poor men who in the last war left behind them their wives, children, friends, home, and all they held dear, for sixty dollars. What, sir, in a time of profound peace, shall we be enacting a general tariff of duties? That I always advocated the doctrine of putting an end to taxes and burdens the moment they ceased to be of absolute necessity, will be recollected by all who have done me the honor to listen whenever I have raised my voice on this floor. I have repeatedly argued in favor of reducing the tax upon salt; and I am now equally opposed to any increase of the tax upon iron. It will readily be discovered that iron presents as good a subject for monopoly as salt. Every farmer must have it. It enters into the composition of his knife and fork, of his axe, his plough, his hoe, his harrow, his sickle, his scythe, his ox chain; in a word, of all the tools and implements by which he is able to turn the stubborn glebe, to reap down his fields, and to subdue the soil. He must have it, or starve. Now, sir, why shall we give relief on this subject to the wealthy gentlemen who form a railroad company, and deny it to the humble corn and tobacco grower? Sir, I cannot fail to notice an argument on which great stress is laid, that this bill is intended solely and exclusively to enforce the collection of the revenue as it was laid by the tariff bill of 1828, and not to lay any additional duty. No alteration was to be made. The duties were to be neither increased nor diminished. The humble individual who had had the price upon his salt increased from twenty-five cents to one dollar and fifty cents, was to be wholly disregarded. Now, sir, in my district, which consists of twelve counties, there is not one establishment for the manufacture of salt, while there are several manufactories of iron. When, then, I see a bill before me, which grants no relief on a prime necessary of life, but diminishes the duty on an article which all admit to be profitable, can any man expect me to vote for it? Besides, sir, the people of the United States, when this administration came into power, looked with fond anticipation to this epoch as one in which all unnecessary offices were to be dispensed with, and no new offices were to be created. Yet, what is provided by this bill? A large number of new offices are created, with heavy salaries, for the purpose of guarding against frauds! What does this prove? It is admitted that, before 1828, the revenue derived from duties exceeded the amount of what it is at present. In the name of common sense, then, will any man say that to collect less revenue more officers are needed? I insist that the general principle of the system is wrong. Taxes ought never to be laid except for the general defence. This thing of taxing some for the protection of others, I am utterly against. It is calculated to rob one thousand nine hundred and ninety-nine persons, in order to sustain the splendor and gratify the cupidity of ONE monopolist or manufacturer. Contrast the number of manufacturers with the amount of the population of the United States, and

you will find the disproportion as striking as any contrast that can exist upon earth. And shall we tax all these for the purpose of building up one or two? If we may tax the people for the protection of manufactures, why may we not for the protection of agriculture? The two interests are inseparable; and, on the same principle, we may give encouragement to both. But we ought not to encourage either at the expense of its neighbor. Suppose me settled on a farm which I manage badly; my next neighbor is prudent and industrious, and he raises one thousand bushels of Indian corn, while I make three hundred bushels of wheat. Shall I go to the county court or legislature, and say, I pray you to lay a duty of twenty or thirty cents per bushel on my neighbor's corn, to enable me to monopolize the market? Sir, iron, salt, wheat, and corn are in one respect all alike; they are all necessaries of life; and is there a man in these United States whose sense does not revolt at such an idea? Shall we tax the poor man because he happens to be in the neighborhood of a nabob? The article of salt is a proof of this. Before 1828, salt in my district was sold at twenty-five cents per bushel. It increased little by little, till it is now from one dollar and twenty-five cents to one dollar and fifty cents. Why? Not from any scarcity of the article, but from the effect of an awful monopoly, which is grinding the poor literally to death. I hope the House will look into that subject. The question on this bill is finally to settle the hopes of the South and West. I wish it understood by my constituents. I know that these considerations sometimes have little weight here, but it may open the eyes of some who have been deceived. I acknowledge the power of this Government to levy duties for all just purposes of revenue, and, in time of war, to lay direct taxes; but I consider a direct tax as more just than this. One individual may abound in cash, and yet bear scarce any burden; while another has a wife and a numerous family of children, all, of course, consumers of salt. Sir, look at the effect of this system. What is it? Your peace and happiness was lately disturbed by the rude footsteps of hostile invaders, and the calamities of war. This very spot where we now sit calmly consulting for the public good, was then polluted by the foot of the enemy. The effect was that the South and the West advanced like brothers at your call; they marched from their homes to your defence, and fought their way, not literally but figuratively, through seas of blood. In the time of danger, we fought, and bled, and fell side by side. This shows the deep cause of complaint which alone could rouse the South to resistance. This bill might with propriety be entitled a bill for the oppression of the South. On this ground I oppose it. But, if it can be so shaped as to do no more than enforce the revenue laws, I will vote in its favor.

He concluded by asking for the yeas and nays on his amendment, but they were not granted, and the amendment was negatived—yeas 57.

Mr. DRAYTON then moved to add to the amendment an amendment, providing for a repeal, after December next, of the duty laid on imported slates, by the tariff of 1828, and he exhibited a number of reasons and several facts in support of his amendment.

Mr. BUCHANAN made a statement of facts relative to the abundant supply of slates which Pennsylvania furnished, to show the inexpediency of the amendment.

Mr. CARSON replied to Mr. B., and controverted the propriety of allowing a profit of three hundred per cent. to the workers of slate in the United States, and Mr. HUNT and Mr. IRBIE sustained the statement of Mr. B., to show the capacity of the country to supply plenty of slate, but the business could not be prosecuted without the protecting duty.

Mr. DRAYTON replied to all the objections, to show that the duty was onerous and improper.

The question being then put, the amendment was rejected—yeas 55.

Mr. TUCKER rose to move an amendment, in which he said he was in earnest; it was, that, after June next, the duty on molasses be reduced to five cents a gallon. He confessed that he had, when the noxious tariff law of 1825 was before the House, voted for the high duty on molasses, in hopes of killing the bill; he thought he could make good come out of evil, but he was deceived. He did not think the friends of that bill would swallow the molasses, but he was disappointed. As he, however, had aided to put on the duty, he now wished to try to take it off, and he asked for the yeas and nays on the question, but they were refused by the House; and

The amendment was negatived, without a division.

Mr. DRAYTON then moved that, after the 30th of June next, the same duty now imposed on a ton of slates be imposed on one thousand slates, for reasons which he explained; but the motion was negatived.

The question was then put on the amendment of Mr. SCOTT, with the proviso of Mr. HOWARD, and carried: yeas 101, nays 70.

After some remarks by Mr. CARSON, animadverting on the reasons assigned by Messrs. RAMSEY and MILLER for their change of vote on the salt duty, and replies by those gentlemen,

The question was (at 9 o'clock) put on ordering the bill to be engrossed, and read a third time, and decided in the affirmative by the following vote:

YEAS.—Messrs. Angel, Armstrong, Arnold, Bailey, Barber, Bartley, Bates, Baylor, Beekman, John Blair, Bockee, Boon, Borst, Brodhead, Brown, Buchanan, Butman, Cahoon, Childs, Clark, Coleman, Condict, Cooper, Cowles, Hector Craig, Crane, Crawford, Creighton, Daniel, John Davis, Denny,

Dickinson, Doddridge, Duncan, Dwight, Earll, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Findlay, Finch, Ford, Forward, Fry, Gilmore, Gorham, Grennell, Hawkins, Hemphill, Hodges, Howard, Hughes, Hunt, Huntington, Ihrie, W. W. Irvin, Thomas Irwin, Isacks, Jennings, Johns, Richard M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Adam King, Lecompte, Letcher, Lyon, Magee, Mallary, Martindale, Lewis Maxwell, Thomas Maxwell, McCreery, Mercer, Miller, Mitchell, Muhlenberg, Norton, Pearce, Pettis, Pierson, Powers, Ramsey, Reed, Richardson, Rose, Russel, Scott, Shields, Sill, S. A. Smith, Ambrose Spencer, Sprigg, Stanberry, Standifer, Sterigere, Henry H. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, John Thomson, Vance, Varnum, Vinton, Washington, Whittlesey, Edward D. White, Wickliffe, Yancey, Young—115.

NAYS.—Messrs. Anderson, Archer, John S. Barbour, Chilton, Claiborne, Conner, Crocheron, Davenport, Deberry, Gordon, Hammons, Harvey, Cave Johnson, Lea, Loyall, Martin, McIntire, Polk, Rencher, Augustine H. Shepperd, Richard Spencer, Taliaferro, Wayne, Weeks, Williams—24.

THURSDAY, May 13.

Salt.

Mr. TALIAFERRO rose, and said, he asked of the House a favor which he had never asked before, and which he had never refused to any other member who requested it. It was that the House would grant its unanimous consent for him to introduce a resolution, and have it printed.

Inquiry being made as to the nature of the resolution,

Mr. T. said it was of a nature which lay at the door of every man, woman, and child in the nation. It was of the nature of salt.

Leave being granted, Mr. T. handed to the Chair the following resolution:

Whereas salt is an article which enters into the daily consumption of every human being in our country, as a matter of primary and unavoidable necessity, and is, to a very great extent, procured at a high price, compared with the cost of producing it, which too often exposes the poor consumer to the grinding exactions of the vender and monopolist of the article. Influenced by such, and by other obviously sound considerations, Congress never has, except under circumstances of great and emergent fiscal necessity, imposed a duty on salt. And whereas, since the necessity for which the existing tax on salt was imposed (after five years' entire exemption of it from duty) in the years 1813 and 1816, has been successfully met and overcome by the patient bearing and faithful payment of this and the other taxes by the people; and the Government no longer needs the revenue arising from the existing tax on salt:

Resolved, That, from and after the 30th day of September next, the duty imposed on all salt imported into the United States, and the territories thereof, shall be ten cents the measured bushel; and that, from and after the 30th day of September, 1831, salt may be imported as aforesaid, free of any duty whatever.

Resolved, That the Committee of Ways and Means be instructed to prepare and report a bill, in conformity with the foregoing resolution.

The resolution being read, Mr. T. moved that it be laid on the table, and be printed.

Mr. POTTER hoped the gentleman would withdraw his motion, and allow the resolution to be now considered.

Mr. TALIAFERRO did not intend to ask for its consideration at this time, but, at the request of the gentleman from North Carolina, he would withdraw his motion to lay it on the table.

Mr. POTTER then demanded the question of consideration.

Mr. IRVIN, of Ohio, reminded Mr. T. of his promise, if the resolution were received, to ask that it be laid on the table, and not now considered.

Mr. TALIAFERRO immediately rose, and asked as a favor of Mr. POTTER that he would withdraw his motion, and permit the resolution to be laid on the table; and he begged pardon for having for a moment forgot the pledge which he had given, in first yielding to the request of Mr. POTTER; he regretted it, and hoped that gentleman would permit him to redeem his pledge.

Mr. POTTER accordingly withdrew his motion; and then, on motion of Mr. TALIAFERRO, the resolution was laid on the table.

The Tariff.

The engrossed bill "to amend the act in alteration of the several acts laying duties on imports," was read the third time, and the question stated, "Shall the bill pass?"

Mr. HALL, of North Carolina, said, he had not heard distinctly the title, and wished to hear it. He had understood the bill to be a bill for enforcing the collection of the revenue; he wished always to call things by their right names. He had never given a tariff vote, nor did he ever intend to do so; but, sir, said Mr. H., I should certainly do so were I to vote for this bill. This is a bill, professedly and in fact, to enforce the tariff law of 1828. The original bill to which this is proposed as an amendment or substitute, was intended for the same purpose. And why is the amendment, or the bill itself, proposed or required? Evidently because the tariff of 1828 is defective—is inefficient. This bill is to supply the defect—to give the efficiency desired. It is, therefore, to be the efficient cause—the real *causa causans* of any additional effect produced by the tariff of 1828, whether for good or evil. As, therefore, I never did give a tariff vote, and as this bill is virtually, and to all practical purposes, the tariff law of 1828, I shall not vote for it. I am aware that, in regard to amendments of a certain character, I differ from many here in my construction of the *lex parliamentaria*. All alterations, sir, are not amendments. This is one instance in point. All propositions purporting to be amendments are not really so.

When the primary law was presented to me, I abhorred it as much as nature abhors a vacuum. If a bill was before us, bad in its nature, and a substitute under the name of amendment offered, so garnished (though containing the same principles) as to make it more easily swallowed, it would, in point of principle, be no amendment, but a mere substitute, in form. Where an amendment offered has the effect of striking off a portion, by which the actual evil is lessened, this is both an alteration and amendment; but not so the striking out one evil, and inserting the same in effect. I have never suffered myself to be thus caught by the name of amendment. Sir, I should not have voted for this bill had the salt been retained in it—it was not to my taste, however well salted. I would as soon have voted for the bill itself, called Mallary's bill, because I could not have been made to vote for either.

Mr. TUCKER, of South Carolina, entered pretty largely into a statement also of his objections to the bill, and to the protecting system. He was followed by

Mr. CHILTON, of Kentucky, who argued earnestly at some length on the same side, and concluded with a motion to lay the bill on the table, which was negatived.

Mr. CAMBRELENG briefly stated why he should vote for the bill, notwithstanding his repugnance to some of its provisions, which he deemed improper, but which he relied on the Senate to rectify.

The question was then put on the passage of the bill, and decided in the affirmative by the following vote:

YEAS.—Messrs. Angel, Armstrong, Arnold, Bailey, Barber, Bartley, Bates, Baylor, Beekman, John Blair, Bockee, Boon, Borst, Brown, Buchanan, Burges, Butman, Cahoon, Cambreleng, Chandler, Childs, Clark, Coleman, Condict, Cooper, Cowles, Hector Craig, Robert Craig, Crane, Crawford, Creighton, Crowninshield, Daniel, John Davis, Denny, De Witt, Dickinson, Doddridge, Duncan, Dwight, Earll, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Findlay, Finch, Forward, Fry, Gilmore, Grennell, Hawkins, Hemphill, Hodges, Hoffman, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Irvin, Irwin, Isacks, Jennings, Johns, Richard M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Lecompte, Letcher, Lyon, Magee, Mallary, Martindale, L. Maxwell, McCreery, Mercer, Mitchell, Monell, Muhlenberg, Norton, Overton, Pearce, Pettis, Pierson, Powers, Ramsey, Randolph, Reed, Richardson, Rose, Scott, Shields, Semmes, Sill, Smith, Ambrose Spencer, Sprigg, Stanberry, Standifer, Sterigere, Stephens, Henry R. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, Thomson, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Whittlesey, Campbell P. White, Edward D. White, Wickliffe, Yancey, Young —127.

NAYS.—Messrs. Anderson, Archer, John S. Barbour, Philip P. Barbour, Barringer, Chilton, Claiborne, Clay, Conner, Crockett, Crocheron, Davenport, Deberry, Desha, Drayton, Dudley, Gordon, Hammons, Harvey, Cave Johnson, Lea, Lent, Loyall, Lewis, Lumpkin, Maxwell, McCoy, McIntire, Polk, Rencher, Roane, William B. Shepard, Augustine H. Shepperd, Richard Spencer, Taliaferro, Trezvant, Tucker, Wayne, Weeks, Williams, Wingate—40.

So the bill was passed, and sent to the Senate for concurrence.

WEDNESDAY, May 19.

Repeal of Duty on Salt.

Mr. MCDUFFIE, from the Committee of Ways and Means, reported the following bill:

"*Be it enacted, &c.* That the duty on salt be fifteen cents per bushel of fifty-six pounds, from the 31st of December, 1831; and, after that time, ten cents a bushel, and no more."

The bill was read the first time; when

Mr. EARLL, of New York, objected to the second reading, which motion, by the rules of the House, was tantamount to a motion to reject the bill.

After a few remarks by Mr. MILLER,

Mr. DAVIS, of Massachusetts, expressed briefly his objections to the bill, and concluded by moving to postpone the bill to the next session of Congress, with the view, if his motion prevailed, of moving a call on the Secretary of the Treasury, to collect certain information, which Mr. D. deemed necessary to enable Congress to act discreetly on so important a subject.

Mr. CHILTON called for the yeas and nays.

Mr. P. P. BARBOUR moved the previous question.

Mr. HOFFMAN rose to a point of order, which the Chair overruled.

The call for the previous question being seconded,

Mr. POWERS, of New York, moved to lay the bill on the table; and the yeas and nays being demanded by Mr. CONNER, they were taken, and the motion to lay on the table lost: yeas 83, nays 102.

The previous question being then carried by 110 to 72,

The main question was put, "Shall the bill be rejected?" and was negatived: yeas 85, nays 103. Of course,

The bill was ordered to a second reading.*

* The grave error of this bill was in not providing for the reduction of the fishing bounties and allowances in proportion to the reduction of the salt duty on which they were founded. That error, then so grave, has become more so since, being followed in subsequent reductions of the salt duty, until the bounties and allowances have nearly lost their foundation, and become almost naked bounties from the Treasury. In every act laying or raising the duty on salt, the fishing bounties and allowances were laid with it, and rose with it; and when the duty was totally abolished in Mr. Jefferson's administration, (March 3d, 1807,) the bounties and allowances were also entirely abolished—both done in the same act—the salt duty abolished in the first section, and the bounties and allowances in the second.

THURSDAY, May 20.

Repeal of Duty on Salt.

The bill reported yesterday, for reducing the duty on salt, being read a second time,

Mr. KING, of New York, moved that the bill be committed to the Committee of the whole House.

Mr. MCDUFFIE opposed this course, as merely going to produce delay and a defeat of the bill, which, if there was a majority favorable to the object, should be acted on immediately to effect its passage this session.

Mr. INGERSOLL moved that the Committee of the Whole be instructed to amend the bill, by adding thereto the following section:

"From and after the 30th September, 1830, the duty on molasses shall be five cents per gallon, and no more; and from and after that time, a drawback be allowed on all spirits distilled in this country from foreign molasses, on the exportation thereof to any foreign country, the same as was allowed before the tariff of 19th of May, 1828."

Mr. I. said, if there was one article on which the tariff of 1828 operated unjustly, it was that which he now sought to relieve. The injustice of the double duty imposed on molasses, in 1828, would be very generally acknowledged, and by none more frankly than those by whose votes the increase was effected. No man now would deny, indeed, it had already been distinctly admitted on this floor, that molasses was loaded with a heavy duty, at the period to which he alluded, for the purpose of rendering the tariff odious. It was hoped by the Southern gentlemen who voted it in, that the bill would be thus drugged by too heavy a dose to go down. In that they were disappointed, and he was glad to see a disposition, which had been expressed on a late occasion, by one of those who was in the vote, to undo what had in this respect failed to answer the object intended. Mr. I. felt more solicitude on this subject, at the present time, from having recently examined with care the report from the Treasury Department in regard to the commerce and navigation of the country for the year past. He found in that document that our trade with Cuba, the island from whence our greatest importations come, had declined nearly a million of dollars during the past year from what it had usually been. The cause of this decline was principally to be attributed, as he learnt from a most intelligent resident in that island, to the fact that, under our present heavy duty upon molasses, taken in connection with the expense of freights and casks, the islanders could not make sales of the article to us to any extent; and they now actually spread over their land, and use as manure, immense quantities of molasses, which they would gladly exchange for the lumber and breadstuffs of our country, if we would but let the trade go on. Are gentlemen aware, said Mr. I., that the trade with Cuba is one of the most valuable branches of our foreign commerce? It stands on the list next to England and France in amount; and strike out the articles of cotton and tobacco which go to these countries, and it will exceed our trade with both nations. Nay, sir, as a market for our breadstuffs, it is more valuable to us than all Europe. It is, too, a trade in which every section of this country is deeply interested—it has no sectional bearing. It takes, in large quantities, the rice of the South, the lumber of North Carolina, the grain and beef of the West which descend the Mississippi, and find there almost their only foreign market—the flour of the Middle States, the corn meal, lumber, and live stock of New England. Besides this, immense quantities of our manufactured articles find an outlet there; not those manufactures which were noxious to some parts of this country, but those which are produced in the workshops of our mechanics in every State of the Union—such as hats, leather, carriages, shoes, harnesses, soap, candles, and cabinet furniture. A trade like this, said Mr. I., is one of the last that should be shackled. We impose heavy duties on European goods, because we cannot barter away our breadstuffs or agricultural products for them: but here is a market which offers to take every thing that you will send—it invites to it every interest that can be named. Why then cripple it by an ungenerous regulation of your own; and why visit your heaviest tax upon the humblest article which goes into the consumption of the poorest people of the country?

Mr. I. said he would say a few words as to the proposed reduction of the duty on salt, as he might not have another opportunity to give his reasons for the votes he had given, or should give, on that question. The salt trade of this country had not been correctly represented. We have heard much of the salt tax, as bearing severely and peculiarly on the poor: and so far as that was the case, he could go as far as any man in extending relief. But there never was a time, even when salt was duty free, that it could be had cheaper than it now can, even on the seaboard; and never so cheap in the interior, near the extensive salt works which have grown up under the operation of the existing duty. The bulk of our importation of salt, and on which most of the duty operates, is not the coarse West India salt used to pack provisions, and which is consumed principally by the poorer citizens; but the refined, or brown salt, as it is called, which we import from Liverpool, or other ports of Great Britain. The value of foreign salt imported during the last year, as appears by the Treasury returns, amounted to seven hundred and fourteen thousand six hundred and eighteen dollars, of which four hundred and sixty-seven thousand two hundred and thirteen dollars was imported, not from Turk's Island, or from any West India port, but from England and Ireland. This kind is imported principally in its refined and manufactured state, for the tables

of the rich, and is as fair a subject for revenue as any one that can be named. He should be opposed to reducing the duty on this refined article; but would cheerfully reduce the duty on the coarse and strong West India or Turk's Island salt, because that was used by the poor, and goes largely into the agricultural operations of the country. He would reduce this, and leave the other untouched, for the same reason that he would reduce the duty on molasses and leave sugar untouched; in other words, he would lighten the tax from those who are least able to pay it, and let the burden rest on those who use the most expensive, or what are generally deemed the most luxurious articles. Should the amendment which he now offered prevail, he pledged himself to follow it up by another, making a discrimination on salt, that he thought would be acceptable to every part of the House.

Mr. TUCKER, for the purpose of bringing on a discussion upon the bill by itself, moved the previous question; which motion being seconded by a majority, and the previous question being sustained by a vote, by yeas and nays, of 98 to 88,

The main question was then put, viz: "Shall the bill be engrossed, and read a third time?" and was decided in the affirmative by the following vote: yeas 103, nays 88.

FRIDAY, May 21.

Molasses and Rum.

Mr. MCDUFFIE, from the Committee of Ways and Means, reported the following bill:

"*Be it enacted, &c.* That, from and after the 30th day of September, 1830, the duty on molasses shall be five cents per gallon, and no more; and from and after that time, there shall be allowed a drawback of four cents upon every gallon of spirits distilled in the United States or the territories thereof, from foreign molasses, on the exportation thereof to any foreign port or place, other than the dominions of any foreign State immediately adjoining the United States, in the same manner, and on the same conditions, as before the tariff of May the 19th, 1828."

The bill being read the first and second time,

Mr. MCDUFFIE moved that the bill be engrossed for a third reading.

A call of the House was moved, and ordered, but suspended before the Clerk had got through the roll.

Mr. WICKLIFFE moved to lay the bill on the table, and asked for the yeas and nays on the motion; which being ordered,

The question was taken, and the motion decided in the negative: yeas 55, nays 120; and

The bill was ordered to be read a third time, by a large majority.

Culture of Silk.

The House resumed the consideration of the resolution reported by Mr. SPENCER, of New York, a week or two ago, for printing ten thousand copies of Mr. Rush's report on the culture of silk.

Mr. SPENCER replied to the objections which had been urged, on a former occasion, to this proposition, contending for the established value of the information contained in the report—the great importance of diffusing it through the country, inasmuch as silk might be successfully cultivated in every part of the Union—the great value to the country of that culture, and the importance of encouraging it by the distribution of instruction in the various processes of the art; to show all which, he adduced various facts and arguments, and a number of respectable authorities. Mr. S. concluded by offering a modification of the resolution, by order of the Committee on Agriculture, proposing to print —— thousand copies of the report.

Mr. HAYNES, of Georgia, moved that the resolution and the amendment be laid on the table; and the question being put, the motion was negatived: yeas 71, nays 92.

Mr. POLK then rose to speak on the subject, but the expiration of the hour cut off further debate.

SATURDAY, May 22.

Culture of Silk.

The House resumed the resolution modified yesterday by Mr. SPENCER, to read as follows:

Resolved, That six thousand copies of the report of the Committee on Agriculture, made to this House on the 13th of March last, with the communication accompanying the same, on the culture and manufacture of silk, and the like number of copies of essays on American silk, by Messrs. Peter S. Duponceau and John D'Homergue, recently published, be printed for the use of the House.

Mr. POLK opposed the resolution, on the ground that there was no more propriety in printing, and paying for, out of the contingent fund of the House, instructions in the art and mystery of cultivating silk, than in printing and distributing the American Farmer, Taylor's Arator, a work on Farriery, or any other treatise on any branch of rural economy, &c.

Mr. CHILTON also opposed what he considered taxing the community some two or three thousand dollars, to print books for the use of the members, and to distribute amongst their friends; and argued generally against the practice of voting money out of the Treasury for the purchase of books for private use. He had no doubt when the people recovered their senses—recovered from that convulsion, that apoplexy, in which they had been thrown by political demagogues, they would rectify this sort of retrenchment and reform. He concluded a number of remarks of the like effect, by moving to lay the resolution on the table, but withdrew it at the request of

Mr. SPENCER, who argued to show that the

works which it was proposed to distribute, were not accessible to the people generally; that they were on a subject of immense importance to the country, and one which ought to be encouraged by the House; that the cost of the publication was insignificant, compared with the value which it would be to the whole Union, &c. When Mr. S. concluded,

Mr. CONNER moved to lay the resolution on the table; on which motion the yeas and nays were ordered, at the call of Mr. BAYLOR; and, being taken,

The motion was negatived: yeas 76, nays 97.

Mr. CHILTON then renewed his opposition to the resolution, and spoke until the expiration of the hour.

MONDAY, May 24.

Culture of Silk.

The House resumed the consideration of the resolution, reported by the Committee on Agriculture, to print six thousand copies of certain tracts on the culture of silk, &c.

Mr. CHILTON, to get rid of further debate on the subject, moved the previous question; which being seconded, and the main question ordered,

Mr. MARTIN required a division of the question; and

The question being accordingly put on the first member of the resolution, viz: "That six thousand copies of the report of the Committee on Agriculture, made to this House on the 12th of March, 1828, with the communication accompanying the same, (Mr. Rush's report,) on the culture of silk," be printed, it was decided in the affirmative by yeas and nays: yeas 109, nays 68.

The second member of the resolution, viz: "And the like number of copies of essays on American silk, by Messrs. Peter S. Duponceau and John D'Homergue, recently published, be printed for the use of the House," was then also agreed to by yeas and nays—100 to 80.

So the whole of the resolution was agreed to.

Removal of the Indians.

The House then proceeded to the unfinished business of Wednesday last, being the bill providing for the removal of the Indians beyond the river Mississippi—the question pending being on a motion for the previous question.

On trying the sense of the House on seconding the motion for the previous question, only seventy-eight rose, and the motion was therefore not seconded by a majority of the House.

The question then recurred on the amendment.

Mr. BELL opposed the amendments, and argued briefly that the bill itself proposed an appropriation only to carry into effect existing contracts and treaties with the Indian tribes, according to their construction by the Government, and introduced no new policy, as was contended by the opposition to it. Therefore, the amendment was unnecessary.

Mr. STORRS replied, and contended that no treaty in existence contained the provision which his amendment proposed, and that it was therefore necessary and expedient.

Mr. WAYNE denied what the amendment assumed, namely, that the Cherokees were a nation independent of the State of Georgia. He expressed a determination to take an opportunity of going to the foundation of this question of Indian rights, and that whatever credit gentlemen might obtain for a fanciful eloquence, they should not have the benefit of the argument.

Mr. WILDE called for the reading of the eighth article of the treaty with the Cherokee Indians west of the Mississippi, of May 26, 1828, as a reply to the resolution of Mr. STORRS.

Mr. VINTON argued that as that treaty was made by the Cherokees west of the Mississippi, it had no binding effect on the Cherokees remaining on the east of the Mississippi. He commented on that treaty as a direct and gross violation of all justice, and expressed the indignation he had always felt at such an attempt to violate the rights of third persons.

Mr. BURGES contended that the treaty of 1828 was practically a fraud, a deep and lasting disgrace to the last administration, and that this bill contained, by implication, a confirmation of that fraud, now attempted to be palmed upon this nation; to sustain which opinions, he adverted to the history of the treaty, and the circumstances growing out of it.

Mr. JENNINGS made a few remarks.

Mr. LEWIS opposed the amendment, and argued to show that the treaty which had been denounced, was just and proper, and cited the treaty with the Indians east of the Mississippi, to show that the bill before the House was in conformity to the settled policy of the Government. He read the Journal, to show that many gentlemen who opposed this bill, supported precisely the same provisions in 1826, when recommended by a different President; inferred from that, that the opposition to it was a party opposition to the administration, and to the South: that, as this bill was known to be the leading measure of the present President, it was an object of great solicitude with the opposition to defeat it; and therefore called on those who avowed themselves the supporters of the administration, to sustain this measure; that, if they did not, they would be faithless, and traitors to their party. Mr. L. then proceeded at some length to vindicate the policy of the bill, and in reply to Messrs. STORRS and EVERETT. When he concluded,

Mr. STORRS rose, and said, that, as a gentleman from Pennsylvania (Mr. HEMPHILL) was about to offer an amendment to the bill, of a more extensive effect, and which would supersede the amendment now before the House, he would withdraw it until the question could be

taken, or that which he (Mr. H.) was about to propose.

Mr. EVERETT, of Massachusetts, replied briefly to Mr. LEWIS's reference to himself, in which, among other remarks, he observed, that, if the provisions of the present bill were precisely the same as those which he had supported in 1826, it was singular that the gentlemen who now advocate this should have voted against that, as was the case with the members from Georgia itself; and he vindicated himself from the imputation of being influenced in his course on this subject by party considerations.

Mr. THOMPSON said that he did not rise to enter into a general discussion, at that time, of the subject then before the House—that although he had purposely abstained from a participation in the discussion of any of the various subjects which had engaged the attention of the House during the present session, with a special view to secure to himself the privilege of discussing this subject at some length, yet considerations of an important character had disposed him to abstain from the discussion; nor would he now trouble the House with any remarks upon the subject, for he thought the cause of principle and humanity could be better served by voting than by talking; but the gentleman from Massachusetts (Mr. EVERETT) had, on two occasions, alluded to the vote which the delegation from Georgia gave on the call of the late President of the United States (Mr. ADAMS) for an appropriation to carry what is commonly called the new treaty into effect. Mr. T. said that he felt that it was due to Georgia—to the gentlemen who composed that delegation—to correct principles—to the House, and to the American people, to state concisely the principles which influenced the Georgia delegation on that occasion. In February, 1825, said Mr. T., commissioners appointed on the part of the United States for the purpose, entered into compact with the Creek Indians, at the Indian Springs, by which they relinquished their claim to all territory within the limits of Georgia. This compact was transmitted to the seat of the General Government, and, with objections to its validity, was presented to the President, who laid that instrument, with the objections to it, before a cabinet council; and under the advice of the council, the treaty, with the objections, was presented to the Senate for ratification. That body, by a very large majority, gave their sanction to it. But before the ratification received executive sanction, the Presidential chair changed incumbents. Mr. Adams, who was a member of the council who advised Mr. Monroe to lay the subject before the Senate, succeeded to the executive chair, and finally gave the executive sanction to that ratification. Thus, said Mr. T., that treaty, having received final constitutional sanction, became a supreme law of the land, and of course was by the constitution placed on the same dignified ground with the constitution itself, for that instrument says that "this constitution, and laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land." Now, sir, said Mr. T., the treaty of the Indian Springs having thus received constitutional sanctions, all the territory within the limits of Georgia, embraced by its provisions, became a part of the sovereign State—for as Georgia, by the issue of the American revolution, acquired the right to exclusive sovereignty within her limits, and as the United States, by the compact with Georgia, in 1802, bound themselves to extinguish the Indian title to all territory within Georgia, for the use of that State, the instant that those Indians thus relinquished their title, a full, perfect, and complete title to the territory embraced by the provisions of that treaty within the limits of Georgia, vested in that State, which could not be divested without her consent. Sir, said Mr. T., Mr. Adams, in his opening Message addressed to Congress at the commencement of the session which immediately ensued his installation into the executive office, repudiated the treaty of the Indian Springs, (1825,) by suggesting that it was founded in fraud, but said he would make it the subject-matter of a separate and special Message. This promise was not redeemed; but Mr. Adams assumed the right to enter into treaty with a delegation from that part of the Creek tribe of Indians which was known as hostile to the United States during the late war, by which he receded to that tribe a part of the territory, a complete title to which had, by the ratification of the treaty of 1825, vested in Georgia, and this without the privity or consent of that State; thus virtually ceding to an Indian tribe a part of a sovereign State. Now, said Mr. T., if it was competent for Mr. Adams thus to re-cede to the Creek Indians a portion of territory which had thus become a part of a sovereign State, was it not competent for him to re-cede to those Indians, as well as to the Cherokees, all the territory obtained from them by previous purchases? And if so, what point of limitation could have stayed his wasting hand in a backward course of reckless policy? Concede this power to the Chief Magistrate of the Union, and the white population may be driven into the Atlantic by a retrocession of the whole territory to the aboriginal inhabitants of this continent. Any or all of the States of this Union might be sold by him to a foreign power. These, said Mr. T., were the views which influenced the delegation from Georgia to give their vote against the treaty made by Mr. Adams with the Creek Indians, as well as against the appropriation to carry it into effect. And the principles upon which the delegation from Georgia acted on that occasion, are, it seems to me, said Mr. T., such as ought to have induced every honest and correct man, who had any knowledge of constitu-

tional principles and provisions, to vote in opposition to such a daring violation of constitutional principles, such a monstrous stretch of executive power, as was committed by Mr. Adams on that occasion.

Mr. VINTON then took the floor, and addressed the House two hours against the bill. When he concluded, seven or eight members rose; but

Mr. DESHA, having obtained the floor, moved the previous question.

Mr. THOMPSON, of Georgia, moved a call of the House.

Mr. LAMAR, of Georgia, demanded the yeas and nays on this motion; which being taken, the call was ordered by a vote of 128 to 29.

The roll was then called, when it appeared there were seven members absent, two of whom soon after entered the Hall; and, after some time,

Mr. BROWN moved a suspension of further proceedings, which motion was decided by yeas and nays in the affirmative.

The motion for the previous question recurring, the House divided, and, tellers being appointed by the Chair, they reported ninety-three for putting the previous question, and ninety-nine against it.

Mr. WAYNE said: Sir, I proceed to the discussion of the subject: and the first point of inquiry is, what was the condition of the Indian in regard to his right to land or soil upon this continent, before and at the time of the arrival of the white man? This inquiry into the Indian's ownership of the soil, when he was first visited by the colonists, is forced upon us by the manner in which the whole question has been argued by our adversaries in and out of this House. I would willingly have avoided it, if it had not been made the source of fruitful imposition in this controversy. For effect, and to produce a sympathy to interfere with the understanding of the argument in support of the measure now before us, the Indian, has been called the owner of the soil—that he generously permitted our ancestors to partake of what the providence of God had given to him and his fathers as an inheritance —"that, as original tenant of the soil, by immemorial possession, he holds a title beyond and superior to the British Crown and her colonies, and to all adverse pretensions of our confederation and subsequent union." Sir, we meet the honorable gentlemen who so fondly revert to the rights of these early and first lords of the soil, and deny that the Indian had either ownership, proprietary right, or tenancy by occupancy, to the lands over which he roamed. It is commonly said, our ownership exists by purchase from the Indian, and that he was proprietor and sovereign of the soil. But both are said, only because he was found upon the continent at its discovery. That he was in possession of portions of land, which were in savage cultivation, over which he roamed for game and war—that several of the tribes had designated natural boundaries as the limits of their hunting grounds, and claimed such an exclusive use of it, against other tribes, no one will deny. But did the extent of their natural rights against each other give such a title or occupancy to all that they aggregately claimed, as to include a power to exclude others from seeking this continent as a resting-place from persecution and want, and making it the land of civilization and Christianity? Sir, they were proprietors of what they used, so long as it was used; but not sovereigns of any part. The one denotes a thing or place in possession; the other is, strictly, an artificial term, applicable only to that state of society where Government is sufficiently advanced to class those living under it in the community of nations; where there is individuality of possession and pursuit, and a recognition of the leading principles of conduct between man and man, with customs or laws to enforce the observance of them; and that compacted existence of a people, which separates them from others, and gives to them the name and attitude of a nation, in its relative position with other nations. Sovereignty over soil is the attribute of States; and it can never be affirmed of tribes living in a savage condition, without any of the elements of civilization, as they were exhibited in the nations of antiquity, or in those of modern times; whether they live under the pressure of Asiatic superstitions, or in the emancipated privileges of Christendom. Among the Indians of North America, an appropriation of soil to individuals was unknown—nor had any of the tribes any institutions to indicate that the property in the soil was in the tribe, as was the case among the ancient Germans, except the fluctuating limits which a stronger tribe chose to assume, from time to time, to prevent hunting excursions within them by a weaker. Theirs was the hunter's state, and in a lower condition of it than had been known before by civilized man. Their hunger being appeased, from flood and field, individuals, or parties of each tribe, roved over the land in pursuit of game, without regard to the place in which it was taken; and their wanderings in the chase knew no bounds, except as they were regulated by the quantity of game, or as they ascertained the existence of some other tribe, using the adjacent land for the same purpose. Without formal conventions to fix boundaries, the tribes in the neighborhood of each other, in the course of time, knew the hunting grounds as they were separately claimed. A trespass by either upon the grounds of another, was followed by individual contentions or tribal war. Wars taught the savage prudence, or rather how to smother his revenge, until time or accident placed it in his power to slake his demon remembrances of supposed or actual wrongs in the blood and entrails of his enemy. When the relative strength of tribes prevented one from extirpating or enslaving another, the fears of each conceded to the other rights, not

to the land or soil, but to the fish in its streams, and to the animals on its surface; and this usufructuary enjoyment was all that the Indian claimed. Can such a use of a country give a property in the soil? or did it, by the law of nature, empower the Indian to exclude the white man from making a settlement within the limits of the hunting grounds of the former, and maintaining his possession by force, if he had ability to do so?

But, sir, this question is settled for us; and, until this controversy began, I had not supposed it would have been overlooked or denied; and it is with some surprise that I have heard it stated, in the course of this debate, that it was the generous consent of the Indians which permitted our ancestors to begin the settlement of these glorious States, that we were intruders upon their possessions, and were now to repay their kindnesses to our forefathers by driving them into annihilation. Vattel says, folio 92, section 81: "The whole earth is appointed for the nourishment of the inhabitants; but it would be incapable of doing so, was it uncultivated. Every nation is, then, obliged, by the law of nature, to cultivate the ground that has fallen to its share; and it has no right to expect or require assistance from others any further than as the land in its possession is incapable of furnishing it with necessaries. Those people, like the ancient Germans and modern Tartars, who, having fertile countries, disdain to cultivate the earth, and choose rather to live by rapine, are wanting to themselves, and deserve to be exterminated as savage and pernicious beasts. There are others, who, to avoid agriculture, would live only by hunting and their flocks. This might, doubtless, be allowed in the first ages of the world, when the earth, without cultivation, produced more than was sufficient to feed its few inhabitants. But at present, when the human race is so greatly multiplied, it could not subsist if all nations resolved to live in that manner. Those who still retain this idle life, usurp more extensive territories than they would have occasion for, were they to use honest labor, and have, therefore, no reason to complain, if other nations, more laborious and too closely confined, come to possess a part. Thus, though the conquest of the uncivilized empires of Peru and Mexico was a notorious usurpation, the establishment of many colonies on the continent of North America may, on their confining themselves within just bounds, be extremely lawful. The people of these vast countries rather overran than inhabited them."

And the same writer, in his chapter upon the establishment of a nation in a country, remarks: "There is another celebrated question, to which the discovery of the New World has principally given rise. It is asked, if a nation may lawfully take possession of a part of a vast country, in which there are found none but erratic nations, incapable, by the smallness of their numbers, to people the whole. We have already observed, in establishing the obligation to cultivate the earth, that these nations cannot exclusively appropriate to themselves more land than they have occasion for, and which they are unable to settle and cultivate. Their removing their habitations through these immense regions cannot be taken for a true and legal possession; and the people of Europe, too closely pent up, finding land of which these nations are in no particular want, and of which they make no actual and constant use, may lawfully possess it, and establish colonies there. We have already said that the earth belongs to the human race in general, and was designed to furnish it with subsistence. If each nation had resolved, from the beginning, to appropriate to itself a vast country, that the people might live only by hunting, fishing, and wild fruits, our globe would not be sufficient to maintain a tenth part of its present inhabitants. People have not, then, deviated from the views of nature, in confining the Indians within narrow limits. However, we cannot help praising the moderation of the English Puritans who first settled in New England, who, notwithstanding their being furnished with a charter from their sovereign, purchased of the Indians the land they resolved to cultivate." And, sir, is not this commendable moderation in regard to the Indians, which we now propose to pursue, but which gentlemen from New England interpose to defeat, with an unfilial disregard of the source from which we draw the example of our conduct? Whenever it is said, then, that the Indian permitted the white man to occupy the lands we now possess, no more is meant than that he stipulated, for a price, to abstain from using the power of numbers to repress the settlement of a colony in its infancy. Every contract between the early settlers and the Indians will show it to have been the apprehension of the former that they were buying peace, and not lands—though, to preserve the first, it was necessary that some boundaries should be determined by the parties, within which each was to live in his accustomed manner. To acknowledge in the Indian a greater right in the soil than has been stated, and to have allowed it in practice, would be an admission of the propriety of his continuing to live in his irrational condition; irrational, because their numbers might have been supplied with food by the cultivation of a hundredth part of the territory which the tribes claim for the chase. For, notwithstanding it suits the purposes of gentlemen to call them great and powerful nations, which have dwindled into insignificance from their contact with the white man, who does not know that the fears of the colonists, the natural love of the marvellous in the savage, and his metaphorical expression of numbers, magnified hundreds into thousands, and the hundred tribes into which they were divided into millions of persons? Trumbull, in his history, gives a condensed but very satisfactory view of this

point, which corresponds with the researches of the best writers upon the subject; and the question in regard to aboriginal population in the United States, when the colonists landed, is so well settled, that even the warmest admirers of New England antiquities no longer repeat the delusions of Mather and Neale. What, then, becomes of the position, so vauntingly assumed and repeated in the course of this debate, that God, in his providence, planted these tribes in this Western world, and made them tenants of the soil by immemorial possession? The Indian the tenant of the soil! He never was so, in any sense of the word. But it is by the misapplication of such terms to his condition, to which civilized man has affixed a distinct meaning, descriptive of individual ownership in lands, that we are misled as to Indian rights.

Sir, God, in his providence, had been pleased to reveal himself to the man of another continent—his purposes towards him, in time and for eternity—what was his rational condition, his rights over the earth, though the penalty of his transgression—how the proper use of it would conduce to his comfort, and the increase of his species, and, by binding men in communities, would keep alive a social devotion to his Maker, and the remembrance of a hereafter, in which men are to live a life of immortality. It was this providence which gave to our fathers the right to plant themselves by the side of the Indian—to draw themselves, and to teach their degraded brother to draw, from their mother earth, bounties which he neither knew how to produce nor to enjoy. What though the Indian roved through the forests of America cotemporaneously with the wanderings of God's chosen people in their escape from Egyptian bondage—time could give to him no right to more of the soil than he could cultivate; and the decree which denied him to be lord of the domain, was the Almighty's command to his creatures to till the earth.

Compare the present population of the world with its magnitude; and, if men were still roving tribes, without civilization or fixed habitation, its spontaneous productions of vegetables, fish, fowl, and animals, would be sufficient to prevent mankind from degenerating to the condition of cannibals. Sir, the civilized man of Europe, pinched by want, and worn down by intolerance, neither needed the edicts of popes, nor the charters of kings, to authorize him to make this Western world his refuge. His wants admonished him to seek a land where his labors would be rewarded by plenty; tyranny absolved him from all allegiance to the place of his nativity; and his right to make this continent the grave of himself and the home of his posterity, was, that the Indian claimed territories too large for the condition in which God intended man should be; and that the land which was not in individual as well as in tribal use, and only in use for hunting, was not such an occupancy as excluded others from its enjoyment, or which created an ownership which it was unjust to invade. Nor can the right for which I contend be refuted, until it can be shown that no pressure of want or tyranny will justify expatriation, and that, in our necessities, we are debarred from casting our eyes to those new regions which science and enterprise have discovered, and which God intended for the support of all which its surface, aided by cultivation, can maintain. The Indian, a creature like ourselves, had his share in this new world—and Christians, coming among them, had no right to trespass, but only to partake. This was only a share—not a political right, or jurisdiction, or ownership, because God had placed him in the midst of these groves, mountains, and streams, to deprive his more civilized brother from resting in their shade, enjoying their grandeur, or partaking of their products, and to commit them as an inheritance to endless generations. I will not presume to inquire by what tremendous moral or natural convulsion a portion of the human race were separated from the rest, and allowed to degenerate into barbarism; but, knowing the fact, reason and the records of divinity tell me, as well by precept as by example, that, when resisted by the man of Europe, the savage of America was not in the condition which God intended his creatures to be—that their rights over soil or territory were limited to what they could catch or kill, to appease the cravings of hunger—to the spots upon which they may have built their huts—and that they had no such jurisdiction over the land, as would have justified them in refusing to receive from the emigrant a something as the pledge that they were to live in amity with him.

In this branch of the discussion, sir, I have advanced no principle inconsistent with the most rigid morality—none which it has not been convenient to gentlemen, in the ardor of their opposition, to forget; and I have been forced to occupy the time I have taken, the more effectually to disabuse the minds of many of a misconception of Indian rights over soil and territory, and of that amiable sympathy for early Indian generosity, which has been so dexterously turned into opposition to the present administration by the plaintive retrospection of our adversaries.

It is time, however, sir, to inquire into what was the political condition of the Indians in regard to England, after the colony was colonized. Did they continue to be independent of that Government? And, if not, what portion of their independence was surrendered voluntarily, or taken away by conquest? Did the Indian, after having surrendered the right which he claimed to sell his hunting grounds, by acknowledging the pre-emption of them to be in Great Britain, retain any thing to himself but a qualified right of occupancy, with a political and civil jurisdiction over their persons and lands in the king of England? I shall not,

of course, detain the House with references to the history of the many tribes of Indians which acknowledged themselves to be subjects of the king of England previous to 1756; but, in illustration of the jurisdiction, claimed by the English over the Indian, and practically asserted, it will be well to refer gentlemen who deny any jurisdiction to the States over the Indians living in their limits, to the historical recollections of the treaties of Ryswick and Utrecht, between the English and French, and the last of which was ratified in 1713. In those treaties we find the English claiming dominion, exercising sovereignty, which was acknowledged by the Indians themselves, and admitted by the French, over the most formidable association of savages in North America, and the only tribes having the semblance of Government—the Five Nations. They are termed, in the treaty, the subjects of England, and are distinguished from other Indians living within the grants of the king, who are called the friends of England, but had not acknowledged themselves to be subjects. In regard to the latter, it is sufficient to assert, what cannot be denied, that all the tribes in the provinces, or on their borders, had acknowledged themselves to be subjects of the king previous to 1756, and no tribe more pointedly than the Cherokees. As early as the year 1730, they acknowledged England's king as their monarch, and received from the hands of his envoy, Sir Alexander Cumming, a commander-in-chief for the Cherokee nation. They sent a deputation of chiefs to England—"laid the crown of their nation, with the scalps of their enemies and feathers of glory, at his Majesty's feet, as a pledge of their loyalty." They not only stipulated, by treaty, to be the allies of England, in war and peace—but, by treaty, they were to surrender their own people for a violation of the rights of Englishmen, as well as Englishmen who might trespass upon them. By this treaty the king acquired a right to give a title to Cherokee lands, and the Cherokees became individually his subjects. Nor was their dependency and subjection to Great Britain in any way interrupted for twenty-five years.

When the disputes between the French and English, concerning their territories in America, brought on war, the Cherokees again acknowledged their fealty to the king of England; and though, at the termination of the war, they were seduced from their allegiance by the artifices of the French, and by the misconduct of some of our people, yet the war with them ended in their complete subjugation by Grant, Montgomery, and Stewart. Hostilities, it is true, ceased by treaty, but they were not treated with as equals: and the king of England re-affirmed his sovereignty and jurisdiction over them, but left them in the undisturbed occupancy of their hunting grounds—still retaining the right to grant them, only subject to such occupancy. And this sovereignty and jurisdiction were exercised in various ways, for more than twenty years, and were shown in the most undeniable character, when, in the war of the revolution, the Cherokees obeyed the orders of England, and laid waste the frontiers of the Carolinas and Georgia. When the constancy of our people terminated what had been gloriously begun, by a glorious peace, England, subdued where she had waged the war, surrendered her sovereignty and jurisdiction of every kind over all the people within the boundaries of the United States. From that moment, not only Georgia, but every State in the confederacy, where Indians were, asserted, by their legislation, a jurisdiction over them and their lands; and, until very recently, notwithstanding the nature of the intercourse between the tribes and the United States, this jurisdiction of the States over the Indians within their limits had not been denied, even by implication. Nor is it now denied entirely, except in behalf of the Cherokees, who are supposed to be released from its operation by virtue of treaties between that tribe and the United States. The weakness, however, of such a pretence shall be shown, when the provisions of those treaties shall be examined, as they will be before I conclude.

The jurisdiction, sir, of which I speak, did not extend to a right, upon the part of the States, to deprive the Indians of their hunting grounds, without a cause, and without compensation; but it was exercised, as it had been done by England, in preventing them from selling any of their lands without permission from the States—though they were granted by the States without consulting the tribes, and the grantees took their titles, disburdened of every lien or encumbrance except Indian occupancy. The States claimed, and without any exception the Indians acknowledged they had a pre-emption of their lands. The States regulated their trade; and this without treaty stipulations, but in virtue of the authority to do so, which the Indians had conceded to England. The States punished them for violations of law, whether committed within the territory which had been reduced practically under their police, or without it. And, in short, the jurisdiction was asserted in every particular, and nothing was left to the Indians but an authority over each other, which, as savages, they had exercised, and which, in our then condition, it was inconvenient to the States to assume. This jurisdiction was asserted by Massachusetts as early as 1672; and the Indians' right to land in that "jurisdiction," was limited by statute to such as they had "possessed, improved, and subdued." At the same time, the Indians' right to sell land was prohibited, by severe penalties, without "license from that court." Nor were they permitted to "make grants for a term of years." All trade with the Indians in that province was forbidden, under the penalty of a confiscation of the

merchandise, "because the trade of furs with the Indians in this jurisdiction doth properly belong to the commonwealth." And his excellency the Governor, with the consent of his council, was empowered to "appoint and commissionate discreet persons, within several parts of this province, to have the inspection and more particular care and government of the Indians in their respective plantations; and to have, use, and exercise the power of a justice of the peace over them, in all matters, civil and criminal, as well for the hearing and determining pleas between party and party, and to award execution thereon, as for examining, hearing, and punishing of criminal offences, according to the acts and laws of this province, so far as the power of a justice does extend; as also to nominate and appoint constables and other proper and necessary officers among them."

It would only have been discreet, too, in gentlemen from Massachusetts, Maine, Connecticut, and New York, who have zealously distinguished themselves by opposition to the measure now before us, to have examined more minutely than they appear to have done, into the nature and extent of the jurisdiction claimed by the States over Indians living in their limits. If they had done so, it is reasonable to think that the fear of the re-action of their reproaches against the State of Georgia, for having excluded the Cherokees from giving testimony, but in certain cases, in her courts, would have restrained them from the free indulgence of their regrets in that regard. Sir, in the State just mentioned, as the law stands at this day, the evidence of an Indian, though sustained by strong "concurring circumstances, amounting to a high presumption," in the only case in which an Indian is permitted by statute to testify, is nullified by the accused, if he will but swear the accusation to be untrue. Nay, sir, so far is this jurisdiction carried by Massachusetts, that a devise of real estate by an Indian was, and is to this day, null and void; and so uninterrupted has been the paternal superintendence of that State over these children of the forest, who have been cruelly subjected to laws, under which at least their numbers have not increased, though admirably calculated to give happiness, strength, and respectability to their masters, that, as late as 1805, we find statutory guardians appointed to have the care and oversight of said Indians and their property, with full power to superintend the same. All conveyances by them of lands in fee, or for a term of years, are declared to be "utterly void, and of none effect, except approved by their guardians." And, by a statute passed in 1810, so wholesome has been the operation of Massachusetts legislation upon the morals and increase of the Indians within her limits, and so carefully have they assured to them the rights of freemen, that no action can be sustained "in any court of law in that commonwealth, where an Indian is a plaintiff, unless the original will be endorsed by two or more of their guardians."

While, sir, I am upon the subject of Massachusetts jurisdiction over the Indians, permit me to remind those of her citizens representing her in this House, and who are so tender of Cherokee rights, that their State has distinguished itself by one memorable instance of punishment for a denial of her sovereignty over the Indians. The name of Roger Williams is familiar to the ears of gentlemen from the East; and the memory of the man is dear to all who love to trace the beginning of that Christian liberty which is now exhibiting itself in triumph in every part of Europe, and which we so fully enjoy; for he was among the foremost, if not the first, of those men in England or America, who well understood, and were bold enough to preach Christian toleration. Williams, however, was a politician as well as theologian; and though there was much contention concerning his orthodoxy, which exposed him to persecution, his life will bear me fully out in the declaration that he would never have been banished, if, in the zeal for Indian rights, he had not said that the charter of Massachusetts was good for nothing, as the soil and sovereignty were not purchased from the Indians. Neither threats nor persuasions could prevail upon him to refrain from the promulgation of this political opinion; and the magistrates of the commonwealth combated it in the shortest way, by a sentence of banishment. Sir, the State of Georgia claims at the hands of the delegation from Massachusetts, in her present controversy, the benefit of this instance of the exercise of her sovereignty; and leaves, for their consolation, the reflections which may be drawn from the remembrance that the jurisdiction over the Indians within her limits, for which she contends, is sanctioned by the persecution of one of the most remarkable men of the age in which he lived, on acount of his denial of it to Massachusetts.

Connecticut, too, sir, was not behind her eldest sister in the assertion of her jurisdiction and sovereignty over the Indians within her chartered limits; and we find her early declaring "that all lands in this Government are holden of the King of Great Britain, as the lord of the fee; and that no title to any lands in this colony can accrue by any purchase made of Indians, on pretence of their being native proprietors thereof, without the allowance and approbation of this Assembly." She restrained and regulated trade with them as she pleased; and directed her selectmen to endeavor to assemble the Indians annually, "and acquaint them with the laws of the Government for the punishment of such immoralities as they may be guilty of, and make them sensible that they are not exempted from the penalties of such laws, any more than his Majesty's other subjects in the colony are." Purchases of lands from the Indians, "under color or pretence of such Indians being the proprietors of said lands by

a native right," without leave from the Assembly, are forbidden under severe penalties. The testimony of an Indian, though sustained by strong circumstances, is of no avail, if the accused will but swear to his innocence. And, notwithstanding Connecticut, by her representatives on this floor, remonstrates against any civil jurisdiction over the Cherokees by the State of Georgia, her legislators, in 1808, and only so far back as 1821, passed acts subjecting Indians in her limits to the same punishments as are to be inflicted upon white men who may transgress her laws; and the regulation of their property and persons is committed to that kind guardianship which their degraded condition requires, and without which they would be constant victims of imposition.

Sir, I pass over the laws of Maine, New Hampshire, Rhode Island, New Jersey, Pennsylvania, Maryland, Virginia, North Carolina, and South Carolina, in all of which jurisdiction and sovereignty over the Indians in their respective limits are asserted, as well before the revolution as after it, and practised to the present day; and, though the gentleman from New York (Mr. STORRS) has, by his manner of arguing this question, subjected the State which he represents, in part, to some animadversion, and himself to reproof, I will content myself with remarking that no State in the Union has more positively insisted upon her sovereignty over Indians, and their lands within her limits, than New York; and that her civil jurisdiction over their persons, both by the decision of her courts and her statutes, is affirmed in the strongest terms, as well over those Indians who have not ceded their lands to that State, as over those who have: and this, notwithstanding the establishment by the Indians of a Government for themselves, claiming to be independent of that State, as the Cherokees do of Georgia, and the existence of treaties between those Indians and the United States, containing the same assurances of protection and guaranties of territory, which, it is said by gentlemen on this floor, make the Cherokees a distinct and independent nation. Nor, sir, should we have heard a denial of the jurisdiction of the States over Indians within their limits, if the too zealous anxiety of gentlemen to defeat the administration, in this prominent point of its policy, had not caused an oblivion in their minds of the political history of our country. We have the records to show that this claim of jurisdiction was collectively admitted by the States, from the beginning of their first confederacy until after the adoption of the present constitution; and it will be for those opposed to us to prove when, how, and by what States, it has been surrendered to the United States. We call for the convention, agreement, the direct clause in the constitution, by which it is given up; or for any other which, by inference or construction, can take it away.

When a petition from a part of Virginia was laid before Congress, on the 1st of June, 1775, intimating "fears of a rupture with the Indians, on account of Lord Dunmore's conduct," and desiring commissioners to attend a meeting of the Indians at Pittsburg, it was ordered "that the above be referred to the delegates of the colonies of Virginia and Pennsylvania." Nor were there any subsequent proceedings in regard to it, without the consent and co-operation of those States. In less than six weeks, Congress, aware of the efforts made by English emissaries to excite the Indians to take up arms against the colonies, took such steps as the exigency required, to secure their friendship and neutrality; and three Indian departments were formed—the Northern, Middle, and Southern. But in none of their subsequent measures was the jurisdiction of States, over Indians in their limits, in any way infracted. And the first proof in support of the declaration I have made, is to be found in the proceedings of Congress on the 2d November, 1782, when a deputation from the Catawba tribe urged Congress to secure to them certain lands in South Carolina, to preserve them from being "intruded into by force, and not to be alienated, even with their own consent." Congress knowing where the jurisdiction was,

Resolved, "That it be recommended to the Legislature of South Carolina to take such measures for the satisfaction and security of the said tribe, as the said Legislature shall, in their wisdom, think fit."

And for the particular information of the gentleman from New York, (Mr. STORRS,) that he may hereafter know the true ground of that State's jurisdiction over Indians within her limits, and, in his future discussions of this subject, either privately or in this House, that he may not mistake, and mistake it to be from voluntary concessions by Indians to the State, I refer him to the report of a committee of Congress, May 1st, 1782, and ask to be permitted to read it:

1st. "It clearly appeared to your committee, that all the lands belonging to the Six Nations of Indians, and their tributaries, have been, in due form, put under the protection of the crown of England, by the said Six Nations, as appended to the late Government of New York, so far as respects jurisdiction only."

2d. "That the citizens of the said colony of New York have borne the burden, both as to blood and treasure, of protecting and supporting the said Six Nations of Indians, and their tributaries, for upwards of one hundred years last past, as the dependents and allies of the said Government."

3d. "That the crown of England has always considered and treated the country of the said Six Nations, and their tributaries, inhabiting as far as the forty-fifth degree of north latitude, as appendant to the Government of New York."

4th. "That the neighboring colonies of Massachusetts, Connecticut, Pennsylvania, Maryland, and Virginia, have, also, from time to time, by their public acts, recognized, and admitted the said Six Nations, and their tributaries, to be appendant to the Government of New York."

And, as a further reason for accepting the cession of land from the State of New York, to which this report related, it is concluded in these remarkable words: "That, by Congress accepting this cession, the jurisdiction of the whole western territory, belonging to the Six Nations and their tributaries, will be vested in the United States, greatly to the advantage of the Union." Words plainly showing the jurisdiction to be in the State, and the State's right to transfer it. Nor, sir, must it be said that these repeated recognitions by Congress of the States' jurisdiction over Indians within their limits, was owing to the terms in which that part of the ninth article of the confederation giving to Congress "the sole and exclusive right and power of regulating the trade and managing all affairs with the Indians not members of any of the States," is expressed; for the article is no more than the concession, embodied, of the States' jurisdiction: and the care with which it was intended to be retained by the States, is shown, by Congress only having conceded to it the power to regulate trade and manage all affairs "with the Indians not members of any of the States," and this, too, "provided the legislative right of any State, within its own limits, be not infringed or violated." But, in virtue of the authority given to Congress by the States over the Indians, Congress, by its proclamation of September 2d, 1783, exercised the authority which the Crown of England had done, in prohibiting settlements and forbidding purchases of lands inhabited or claimed by Indians, "without the limits or jurisdiction of any particular State." When it became necessary to prepare an ordinance for regulating the Indian trade, Congress exhibited the same commendable caution in regard to the States' jurisdiction over Indians in their limits, by resolving "that the preceding measures of Congress relative to Indian affairs shall not be construed to affect the territorial claims of any of the States, or their legislative rights, within their limits." But why, sir, should I fatigue myself, and exhaust the patience of this House, by citing additional proofs of what was the universal apprehension of the jurisdiction possessed by the States over Indians and their lands? Those who are curious in this matter, will see, by consulting the Journals of the convention, how repeatedly, in framing the articles of confederation, it was acknowledged. There is enough, sir, to shield the State of Georgia from the imputation of setting up any novel pretension in her claim of jurisdiction over the Cherokees, and their lands lying in the State, and pursuing the course to which she has been urged by circumstances, regardless of what may be said of her. The State is prepared to maintain the position she has taken, against any coercion which may be attempted, and her functionaries are ready to defend her rights before any tribunal by which they can be constitutionally investigated. We ask for no more than other States have and continue to exercise, without having their claims of jurisdiction over the Indians in their limits questioned; and our authority, proceeding from the same common fountain, we shall not permit to be lessened, or any restraint to be imposed upon its exercise. Repeated calumnies against the State have taught her people to bear, with dignity, every slander upon its honor: and it is our pride that, though, in the many controversies we have had, she has been misjudged in the commencement, the State has never claimed a political or territorial right which has not been conceded; and time has uniformly given to her the vantage ground of vindication in the contention.

Where proofs of this jurisdiction in the States are so plain and numerous, as well historical as political, it becomes necessary for those who sustain it, to notice the grounds upon which it is denied. I shall state them fully, so far as they have been urged in this debate, and by those out of this House, who have distinguished themselves in exciting public opinion against the policy proposed by the bill on your table. It is said, in behalf of Indian independence generally, that, as early as 1763, the King issued a proclamation, forbidding settlements to be made upon any lands whatever, "which, not having been ceded or purchased, were reserved to the Indians." And in support of Cherokee, Chickasaw, Choctaw, and Creek nationality and separate existence from the States and the United States, certain treaties between those tribes and the United States are cited as evidence. Now, sir, it unfortunately happens, for those who have such faith in the royal ordinance of 1763, that it asserts dominion over the Indians in terms, and merely reserves to them the unmolested occupancy of their "hunting grounds." "Whereas it is just and reasonable, and essential to our interest and the security of our colonies, that the several nations or tribes of Indians with whom we are connected, and who live under our protection, should not be molested or disturbed in the possession of such parts of our dominions and territories as, not having been ceded to or purchased by us, are reserved to them, or any of them, as their hunting grounds," is the language of the proclamation. Here is the assertion of jurisdiction, and it is followed by a command to one class of subjects not to disturb another. If, at that day, any one of his Majesty's liege subjects in the colonies had used this proclamation as the basis of Indian independence, to the exclusion of England's sovereignty and jurisdiction over them, and had promulgated his doctrine, his career would soon have been stopped by a visit from the King's attorney, in the form of an information, to answer for sedition—if he had not, in the loyalty of the provinces, been made to share, in a more summary manner, the fate of Roger Williams. Banishment, sir, would have been a tender mercy for such political heresy. In the succeeding paragraph of the "royal ordinance" to that which has just been

cited, forbidding settlements upon Indian hunting grounds, the King declares it "to be our royal will and pleasure, for the present, to reserve under our sovereign protection and dominion, for the use of the said Indians, all the lands and territories not included within the limits of our said three new Governments." Such, sir, is the support given to Indian independence by the proclamation of 1763; and, with this plain assertion of sovereignty by the King, I am warranted in supposing that gentlemen could never have arrayed it in support of their cause, if, in their haste to defeat the bill under consideration, they had not overlooked the contents of this "royal ordinance" and corner-stone of Indian independence. But the strong ground upon which Indian independence, and that of the Cherokees particularly, is placed, are the treaties existing between the United States and those tribes, entered into before and since the adoption of the present constitution. I shall take up the gauntlet which has been thrown down by the opposition in behalf of the Cherokee independence, and am willing to make the treaty stipulations between that tribe and the United States the test of the jurisdiction of the States over Indians living in their limits.

The assumption in behalf of the Cherokees is, that they are an independent people, having a political sovereignty over, and title in fee to, the lands which they claim; that they are neither subordinate to the United States, nor subject to the jurisdiction of any of the States in which they live; that they have a right to form a Government, which shall act not only upon themselves, but upon citizens of the United States who may transgress its laws; and that they have the ability to establish such relations between themselves and the United States, in future, as their interest or convenience may dictate. This independence is based upon treaties with the United States; and those of Hopewell and Holston are principally relied upon in support of it; the seventh article in the latter being a guaranty to the Cherokee nation of all their lands not ceded. The object which I now have in view is, to prove, without any reference to the authority which Georgia may exert over them, that the Cherokees, by their own concessions in the treaties mentioned, are debarred from establishing such a Government as now exists among them; and, of consequence, that they are not an independent people, and can have no attribute of a nation. The sixth article of the treaty of Hopewell deprives the Cherokees of the power of punishing Indians, or persons residing among them, or who shall take refuge in their nation, for robbery, murder, or other capital crime, on any citizen of the United States; and binds them to deliver the offender, to be punished according to her laws. And, by the seventh article, they have not the privilege to punish a citizen of the United States, who shall commit either of the offences just named upon an Indian. By the ninth article, the United States have the exclusive right of regulating the trade with the Indians, and of managing all their affairs in such manner as they think proper. The same power is in the United States by the sixth article of the treaty of Holston; and by the tenth and eleventh articles of the same treaty, the Cherokees are bound to deliver up criminals, refugees as well as Indians; and the United States reserves the right to punish its own citizens who shall commit crimes on Cherokee land. It must be kept in mind that, by the first and third treaties of Tellico, the treaties before existing between the parties are declared to be in force, together with the construction and usage under their respective articles, and so to continue; and the sixth article of the first treaty of Tellico is a repetition of the guaranty to the Cherokees of the remainder of their country forever. Is it consistent, then, with such powers as are conceded by the treaties of Hopewell and Holston to the United States, that the Cherokees shall form a Government, virtually excluding the operation of any action of the United States upon Cherokee concerns? — a Government which legislates for the punishment, by their own courts, of the refugees and criminals whom, by treaty, they are bound to surrender, to be punished according to the laws of the United States, the only instance in which they are permitted to punish a citizen being where persons intrude upon their lands without their consent: a Government which taxes the licensed trader, and forces a revenue from the vender of merchandise, when the sole and exclusive right to regulate their trade is in the United States; which inflicts the scourge upon the backs of your people, regardless of their cries that they are American citizens, and of the remonstrances of your agent, who, by treaty, lives among them to protect them from abuse, and our own people from that cruelty which, in the face of our institutions, permits polygamy as a fit indulgence for their chiefs and rulers, and twists a halter around the neck of every Indian who dares to enroll his name as an emigrant, or who attempts to persuade others to become so.

If the Cherokees have a right to establish an independent Government, they are disunited from the United States as well as the States, and can enter into alliances with foreign nations, except so far as they may be restrained by their treaties with the United States. But even this badge of sovereignty, and without which a people cannot exist as a nation, was surrendered by the second article of the treaty of Holston. Sir, it would have been well for gentlemen, before they had chanted their strains of Cherokee virtue, happiness, simplicity, and independence, to have acquainted themselves with the true position of that tribe, as fixed by treaties, and with their moral condition as a people. And it is not amiss for me now to inquire if their violations of the treaties, by the establishment of a Government which puts aside

their concessions to the United States, have not released the latter from all obligation to maintain the guaranty of their territory. I have no disposition to conceal the fact, that, in the treaties with this tribe, there are expressions which seem to countenance the assumption that they are an independent people. But when interpreted in connection with their concessions, their geographical position to the United States and the State of Georgia, and to Spain, before Louisiana and the Floridas were acquired by us, those expressions indicate no more than the caution which our Government used to prevent depredations upon our frontiers by a horde of savages, and an admission that they should continue to live upon their hunting grounds unmolested, and in the darkness of their own superstitious and savage laws, until, by the force of our example and aid, they could throw off their bondage.

We have heard it relied upon, too, that, in these treaties, the tribes are called nations; and the use of the word, from its ordinary acceptation, is suited, as the opposition know, to mislead persons in general as to what was the political character of the tribes in the apprehension of the United States, when they were treated with. At first, it would imply the concession of a separate and national existence. But it does not do so; and that it may not do so, I invoke the aid of Robertson, the historian, to put down the interpretation given to the word by "William Penn" and his coadjutors in this House—and the historian's authority will at least be considered entitled to an equality of weight with those who may have the temerity to set themselves up against him. In his fourth book, under the head of the Indians being divided into small communities, he says: "In America, the word nation is not of the same import as in other parts of the globe. It is applied to small societies, not exceeding, perhaps, two or three hundred persons, but occupying provinces greater than some kingdoms in Europe." The succeeding part of the paragraph, in which the philosophic historian denies the ownership of lands in the Indians, is also recommended to the perusal of such as assert it; and they will take kindly, I trust, my intimation that the whole chapter, having some connection with this subject, will interest them.

But this question of Cherokee independence and the right of self-government, of entire freedom from State jurisdiction, may be resisted by stronger arguments than inferences from treaties with the United States, which, upon a full examination of the constitutional efficacy of treaties, and the powers given to the United States to make them, will be found can neither give nor take away any right of an Indian. This confederacy consisted, originally, of States deriving their political existence from their joint declaration of independence, and the subsequent acknowledgment, by the definitive treaty of peace that they were free, sovereign, and independent States; and England, in these remarkable words in the treaty, relinquishes to them, as individual States, "all claims to the Government, propriety, and territorial rights of the same and every part thereof." Their boundaries were declared in their charters, or grants; and in the collective declaration in the treaty of peace of the boundaries of the United States, those which each State claimed for itself are comprehended. Within the boundaries of these States, Indian tribes lived, having hunting grounds reserved for their use, and of which they could not be deprived but by their own consent, and for a price.

By the articles of the confederation, the right to regulate the trade and to manage all affairs with the Indians not members of any of the States, was given to the United States. The readiest mode of exercising these powers was by treaty; and it not being then well understood what tribes, from their scattered condition, were within the States, the United States negotiated with them without a particular reference to this limitation of their powers, and without a certain knowledge of the location of the tribes; the exigencies of the States in the war with Great Britain, making it essential that their friendship and partiality should be secured. But, after the war, the common danger no longer menacing the existence of the States, no sooner did the United States make a treaty with any tribe of Indians, than the States began to look into its provisions to see if they were consistent with the grant of power to "regulate the trade and manage all affairs with the Indians not members of any of the States." The treaty of Hopewell, with the Cherokees, was at once protested against by North Carolina, for its invasion of their legislative rights. A protest, in such a case, was all that was necessary, especially as the United States did not, by legislation, attempt to enforce those clauses of the treaty which were noxious to the rights of the protesting States. It must be kept in mind that, up to this period, the United States had made no guaranty to the Cherokees of their lands. Thus matters stood between the United States, the States, and the Indians, until after our present constitution had been ratified by the States. In 1791, the United States made with the Cherokees the treaty of Holston, and, by virtue of a clause in the constitution, to "regulate commerce with the Indian tribes," they assume the right "solemnly to guaranty to the Cherokee nation all their lands not hereby ceded;" and from this guaranty it is argued the Cherokees are independent, having a right of self-government, and free from the civil jurisdiction of the States. That is, the right of the United States "to regulate commerce with foreign nations, and among the several States, and with the Indian tribes," is so expansive a power, that, because commerce may be regulated by treaty, the United States are empowered to dissolve, by treaty, all the political relations between the States and Indians living in their limits; to make them an independent people, with an

ability to form a Government and State within the acknowledged limits of other States, though, by the third section of the fourth article of the constitution, it is declared, "no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the Legislatures of the States concerned, as well as of the Congress." Sir, so monstrous a concatenation of construction it is only humane to strangle in its birth; and I trust it lies dead in all its deformity.

Mr. THOMPSON, of Georgia, said he had forborne to take up the time of the House in delivering his views at large on the bill, and he was therefore privileged, he thought, in again demanding the previous question, (which would of course put by the amendment.) Accordingly,

Tellers were appointed to count the House, who reported ninety-eight in favor of, and ninety-eight against the previous question. The SPEAKER voted in the affirmative: so the motion for the previous question was seconded.

The previous question was then put, "Shall the main question be now put?" and the votes being ninety-nine to ninety-nine, the SPEAKER voted with the yeas, and decided the question in the affirmative.

So the main question was at last put, "Shall the bill be read a third time?" and was decided in the affirmative by the following vote:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, John S. Barbour, P. P. Barbour, Barnwell, Baylor, Bell, James Blair, John Blair, Bockee, Boon, Borst, Bouldin, Brodhead, Brown, Cambreleng, Campbell, Carson, Chandler, Claiborne, Clay, Coke, Coleman, Conner, Hector Craig, Robert Craig, Crawford, Crocheron, Daniel, Davenport, Warren R. Davis, Desha, De Witt, Drayton, Dwight, Earll, Findlay, Ford, Foster, Fry, Gaither, Gilmore, Gordon, Hall, Hammons, Harvey, Haynes, Hinds, Hoffman, Howard, Hubbard, Isacks, Jennings, R. M. Johnson, Cave Johnson, Perkins King, Lamar, Lea, Lecompte, Loyall, Lewis, Lumpkin, Lyon, Magee, Martin, Thomas Maxwell, McCoy, McDuffie, McIntire, Mitchell, Monell, Nuckolls, Overton, Pettis, Polk, Potter, Powers, Ramsey, Rencher, Roane, Scott, Wm. B. Shepard, Shields, Speight, Richard Spencer, Sprigg, Standifer, Sterigere, Wiley Thompson, Trezvant, Tucker, Verplanck, Wayne, Weeks, C. P. White, Wickliffe, Wilde, Yancey—102.

NAYS.—Messrs. Armstrong, Arnold, Bailey, Noyes Barber, Barringer, Bartley, Bates, Beekman, Burges, Butman, Cahoon, Childs, Chilton, Clark, Condict, Cooper, Cowles, Crane, Crockett, Creighton, Crowninshield, John Davis, Deberry, Denny, Dickinson, Doddridge, Dorsey, Dudley, Duncan, Ellsworth, George Evans, Joshua Evans, Edward Everett Horace Everett, Finch, Forward, Gorham, Green, Grennell, Hawkins, Hemphill, Hodges, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, Wm. W. Irvin, Johns, Kendall, Kennon, Kincaid, Adam King, Leiper, Letcher, Mallary, Martindale, Lewis Maxwell, McCreery, Mercer, Miller, Muhlenberg, Norton, Pearce, Pierson, Randolph, Reed, Richardson, Rose, Russel, Aug. H. Shepperd, Semmes, Sill, Samuel A. Smith, Ambrose Spencer, Stanbery, Stephens, Henry R. Storrs, Wm. L. Storrs, Strong, Sutherland, Swann, Swift, Taliaferro, Taylor, Test, John Thomson, Tracy, Vance, Varnum, Vinton; Washington, Whittlesey, Edward D. White, Williams, Wingate, Young—97.

TUESDAY, May 25.

The Impeachment.

Mr. STORRS, of New York, observed, that, as the Senate would meet to-day as a court of impeachment, for the purpose of receiving the answer of the respondent, Judge Peck, it was indispensable that the House come to some order immediately on the subject. He therefore moved a resolution that the House would, in Committee of the Whole, attend the Senate during the trial of James H. Peck.

Mr. PETTIS said, he would like to know some reasons why the House should attend the Senate during the trial. Unless the attendance were absolutely necessary, it would be better to be employed in the transaction of its ordinary business, and let the managers appointed by the House attend the Senate, and conduct the prosecution. If the House adopted this resolution, (said Mr. P.,) the attendance on the Senate would take up the whole time of the next session, and nothing else would be done.

Mr. STORRS observed that this resolution was conformable to the usage of the House on former occasions. The House would receive, at twelve o'clock to-day, a message from the Senate, that they are ready to receive the House, and that seats are prepared for them. The House would only have to go there to-day, and be present while Judge Peck puts in his answer to the impeachment; the House will come back, and the Senate will adjourn as a court until the second Monday of next session. If the House be not present, the Senate cannot receive the plea of the accused.

Mr. PETTIS insisted that the presence of the managers would be sufficient, and that, if the House resolved to attend the Senate during the trial, there would be little other business done during the next session.

Mr. SUTHERLAND thought it would be wrong to adopt the resolution. It would be very proper to go to the Senate to-day, and be present at the opening of the court for the impeachment, and receiving the answer of the accused; but afterwards, unless some very pressing occasion should require it, the presence of the House would be unnecessary. The object in appointing managers, was to leave it to them to conduct the impeachment. He cited Jefferson's Manual to sustain his opinion, and moved to modify the resolution so as to provide that the House would attend this day.

Mr. STORRS. Then we shall have to adopt a similar one every day, as the attendance of the House is indispensable to the continuance of the prosecution.

Mr. WILLIAMS said he would like to learn from the Speaker what the practice was in such cases.

The SPEAKER observed that every member was as competent to inform himself and judge as the Chair; but there was no doubt the uniform practice had been for the House to be present at the trial, as the accusers and prosecutors.

Mr. STORRS then entered into a somewhat detailed examination of the subject, in reply to Messrs. PETTIS and SUTHERLAND, to show that the presence of the House was necessary. The appointment of managers was not intended to dispense with the presence of the House, but, merely to act for the House, as it would be inconvenient for so large a body to act for itself, and the managers could take no step without consulting the House, which must, therefore, be present.

Mr. MCDUFFIE hoped his friend from New York would remove the present difficulty by accepting the modification of Mr. SUTHERLAND, and order for future arrangements could be taken hereafter.

After a few remarks by Messrs. MERCER and SUTHERLAND, Mr. STORRS accepted the modification, and the resolution was agreed to as follows:

Resolved, That this House will, this day, at such hour as the Senate shall appoint, resolve itself into Committee of the Whole, and attend in the Senate on the trial of the impeachment there pending of James H. Peck, judge of the district court of the United States for the district of Missouri.

THURSDAY, May 27.

Maysville and Lexington (Ky.) Road Bill—Veto Message.

A Message was received from the President of the United States, by Mr. Donelson, his private secretary, returning the bill which originated in this House, and which had passed both Houses, for authorizing a subscription to the stock of the Maysville and Washington Turnpike Road Company in Kentucky, with his reasons at large for refusing to sign the same.

The Message was read through by the clerk, and heard with great attention.

When the reading was concluded, there arose a hurried and anxious debate, involving no principle of the bill, but merely the question whether the bill should be reconsidered *instanter*, or whether the reconsideration should be postponed until to-morrow. During the whole of this proceeding, there was a constant tendency to debate the main question, and an effort on the part of the Chair to confine the debate to the question of postponement. In this skirmishing, Mr. IRVIN of Ohio, Mr. DANIEL, Mr. VANCE, Mr. INGERSOLL, Mr. BROWN, Mr. POTTER, Mr. P. P. BARBOUR, Mr. WICKLIFFE, Mr. POLK, Mr. BELL, Mr. COLEMAN, Mr. LETCHER, Mr. BURGES, Mr. YANCEY, and Mr. BARRINGER took some part.

Finally, as by common consent, it was agreed that the reconsideration should be postponed until to-morrow, by which time the Message, it was supposed, would be printed, and in the hands of every member.

The question of printing the report gave rise to some debate, by reason of the intervention of the rule requiring one day's notice for an order for an extra number of copies of any document. For the present, under that rule, the usual number only was ordered to be printed.

Repeal of Salt Duty.

The House proceeded to the consideration of the engrossed bill entitled "An act to reduce the duty on salt;" and the question was stated, Shall the bill pass? when

A motion was made by Mr. STORRS of New York, that the said bill be recommitted to the Committee of Ways and Means, with instructions so to amend the same, as to postpone any reduction of the duty on salt until the 30th September, 1831.

Mr. S. alleged, as a reason for his motion, that he wished to give the State of New York time to alleviate by her legislation the effect of this measure on her interest, and to adapt her policy to a change which would inflict so great an evil on her pecuniary interest.

Mr. P. P. BARBOUR moved the previous question.

Mr. STANBERY moved to lay the bill on the table; on which motion Mr. VINTON demanded the yeas and nays, and they were ordered.

Mr. POTTER moved a call of the House.

[At this moment a number of the Senators coming into the Hall, it was ascertained that the Senate had adjourned; and as the joint rules of the two Houses provide that "no bill that shall have passed one House, shall be sent for concurrence to the other on either of the three last days of the session," it became a question whether it would be worth while to pass the bill under consideration, inasmuch as this was the last day on which a bill could be sent to the Senate for concurrence, and the Senate had now adjourned.]

Mr. TAYLOR was of opinion that, as the Senate had adjourned, it would be useless to pass the bill, as it could not be sent there for concurrence.

Mr. MCDUFFIE said, it was evident that the Senate had by inadvertence overlooked the rule, and had adjourned without being aware of the effect; therefore, doubtless, something would be done to remove the difficulty, as there were several bills which it was indispensable to pass. He hoped therefore the House would go on with this bill, and pass it.

Mr. P. P. BARBOUR thought the bill could be sent to the Senate, notwithstanding it had adjourned. Suppose the Senate were not to sit two of the four last days of the session, could that deprive the House of the benefit of all the

bills which might be passed by it? Sir, (said Mr. B.,) the Clerk of this House can deliver this bill to-day, if it pass, to the Secretary of the Senate, and the Senate can to-morrow take it up and act on it, although it be not in session to-day when the bill goes there.

Mr. VANCE now moved that the House adjourn; and the yeas and nays being demanded by Mr. LAMAR, they were taken, and the motion was negatived: yeas 54, nays 127.

Mr. DRAYTON moved to lay the motion for a call of the House on the table; and Mr. RAMSEY demanding the yeas and nays on the motion, Mr. D. withdrew it; but

Mr. STERIGERE renewed the motion to lay on the table, which being taken, the motion for a call of the House was ordered to lie on the table. The question was then taken on laying the bill on the table, and negatived: yeas 84, nays 97.

The previous question was then seconded by a majority of the House; and the previous question was carried by yeas and nays—108 to 78. So that

The main question was at last put on the passage of the bill, and carried in the affirmative: yeas 105, nays 83.

So the bill was passed, and ordered to be sent to the Senate for concurrence.

[When the roll on the passage of the bill was calling, and the Clerk reached the name of Mr. YANCEY, of Kentucky, Mr. Y. rose, and said, he knew he was out of order, but still he wished to state the reason which governed his vote, as he was going to change the vote he had formerly given on this bill. We are in possession of intelligence (said Mr. Y.) that the West India trade will now be opened; and as the West Indies have salt in abundance, and the western country has provisions in abundance, one being exchanged for the other, will reduce the price of salt in the West to the poor man. It was that he felt interested for, and this induced him to change his vote. Mr. Y. did not of course make these remarks without being called to order repeatedly, both by the House and the Chair, but he persisted in saying thus much before he voted.]

Molasses and Rum.

The engrossed bill to reduce the duty on molasses, and to allow a drawback on rum distilled from foreign molasses, was next read the third time, and put on its passage.

Mr. BARRINGER moved the previous question, fearing that debate might arise on the bill, and endanger it by delay.

Mr. VANCE moved to lay the bill on the table, which was negatived; and

The previous question being seconded and agreed to, the question was put on the passage of the bill, and decided in the affirmative by yeas and nays—117 to 60.

So this bill was passed, and ordered to be sent to the Senate for concurrence.

FRIDAY, May 28.

The Veto Message.

The House then, according to order, proceeded to the consideration of the Message of the President of the United States refusing his assent to the bill for a subscription of stock in the Maysville Road Company—the question being, "Will the House pass the bill, the objections of the President notwithstanding?"

Mr. KENNON observed, that, being perfectly satisfied in his own mind that all the arguments which could be adduced would not change a single vote upon the subject, he felt himself bound to move the previous question.

The question was agreed to by a vote of yeas 85, nays 67. So the previous question was carried.

The yeas and nays were called for, ordered, and taken, on the putting of the main question. It was carried by a vote of 105 to 76.

The main question, which was the passage of the bill, the objections of the President notwithstanding, was then put. The vote was as follows:

YEAS.—Messrs. Armstrong, Noyes Barber, Bartley, Bates, Baylor, Beekman, John Blair, Boon, Brown, Burges, Cahoon, Childs, Chilton, Clay, Clark, Coleman, Condict, Cooper, Crane, Crawford, Crockett, Creighton, Crowninshield, John Davis, Denny, Doddridge, Dorsey, Duncan, Dwight, Ellsworth, George Evans, Edward Everett, Horace Everett, Findlay, Finch, Ford, Forward, Grennell, Hawkins, Hemphill, Hodges, Howard, Hughes, Hunt, Huntington, Ingersoll, Irvin, Isacks, Johns, Kendall, Kennon, Kincaid, Lecompte, Letcher, Lyon, Mallary, Martindale, L. Maxwell, McCreery, Mercer, Miller, Mitchell, Norton, Pearce, Pettis, Pierson, Ramsey, Randolph, Reed, Richardson, Rose, Russel, Scott, William B. Shepard, Semmes, Sill, Ambrose Spencer, Sprigg, Stanberry, Standifer, Stephens, H. R. Storrs, W. L. Storrs, Strong, Sutherland, Swann, Swift, Test, John Thomson, Vance, Vinton, Washington, Whittlesey, Edward D. White, Wickliffe, Yancey, Young—96.

NAYS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Archer, Arnold, Bailey, J. S. Barbour, Philip P. Barbour, Barnwell, Barringer, Bell, James Blair, Bockee, Borst, Bouldin, Brodhead, Cambreleng, Campbell, Carson, Chandler, Claiborne, Coke, Conner, Cowles, Hector Craig, Robert Craig, Crocheron, Daniel, Davenport, W. R. Davis, Deberry, Desha, De Witt, Drayton, Dudley, Earll, Foster, Fry, Gaither, Gordon, Gorham, Hall, Hammons, Harvey, Haynes, Hinds, Hoffman, Hubbard, Jennings, Cave Johnson, Perkins King, Adam King, Lamar, Lea, Leiper, Loyall, Lewis, Lumpkin, Magee, Thomas Maxwell, McCoy, McDuffie, McIntire, Monell, Muhlenberg, Nuckolls, Overton, Polk, Potter, Powers, Reucher Roane, A. H. Shepperd, Shields, Smith, Speight, Richard Spencer, Sterigere, Taliaferro, Taylor, Wiley Thompson, Trezvant, Tucker, Varnum, Verplanck, Wayne, Weeks, Campbell P. White, Wilde, Williams—90.

So the bill, not being supported by two-thirds of the House, was rejected.

SATURDAY, May 29.

Louisville and Portland Canal.

The bill from the Senate to authorize a subscription to the stock of the Louisville and Portland Canal Company, was finally passed.

The bill from the Senate authorizing a subscription to the stock of the Washington and Frederick Road Company, was finally passed.

Massachusetts Militia Claim.

The bill from the Senate, to authorize the payment of the claim of the State of Massachusetts, for certain services of the militia during the late war, was finally passed.

MONDAY, May 31.

The bills which originated in this House, last presented to the President for his approbation, were returned for his signature.

The following message accompanied one of these bills:

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TWENTY-FIRST CONGRESS.—SECOND SESSION.

PROCEEDINGS IN THE SENATE.

MONDAY, December 6, 1830.

This day, at twelve o'clock, the roll having been called over by the Secretary of the Senate, (WALTER LOWRIE,) it appeared that there were present thirty-five members; whereupon, Mr. SMITH, of Maryland, President pro tempore, in the absence of the Vice President, took the chair, and called the Senate to order. The Secretary was directed to acquaint the House of Representatives that a quorum of the Senate was assembled, and ready to proceed to business; who returned, and informed the Senate that the other House had adjourned until to-morrow, at twelve o'clock.

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Mr. GRUNDY, from the joint committee, subsequently reported that they had performed that duty, and had received for answer from the President, that he would, this day, at half past one o'clock, make a communication, in writing, to both Houses of Congress.

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With a population unparalleled in its increase, and possessing a character which combines the hardihood of enterprise with the considerateness of wisdom, we see in every section of our happy country a steady improvement in the means of social intercourse, and correspondent effects upon the genius and laws of our extended republic.

The apparent exceptions to the harmony of the prospect are to be referred rather to inevitable diversities in the various interests which enter into the composition of so extensive a whole, than to any want of attachment to the Union—interests whose collisions serve only, in the end, to foster the spirit of conciliation and patriotism, so essential to the preservation of that union which, I most devoutly hope, is destined to prove imperishable.

In the midst of these blessings, we have recently witnessed changes in the condition of other nations, which may, in their consequences, call for the utmost vigilance, wisdom, and unanimity, in our councils, and the exercise of all the moderation and patriotism of our people.

The important modifications of their government, effected with so much courage and wisdom by the people of France, afford a happy presage of their future course, and has naturally elicited from the kindred feelings of this nation that spontaneous and universal burst of applause in which you have participated. In congratulating you, my fellow-citizens, upon an event so auspicious to the dearest interests of mankind, I do no more than respond to the voice of my country, without transcending, in the slightest degree, that salutary maxim of the illustrious Washington, which enjoins an abstinence from all interference with the internal affairs of other nations. From a people exercising, in the most unlimited degree, the right of self-government, and enjoying, as derived from this proud characteristic, under the favor of heaven, much of the happiness with which they are blessed; a people who can point in triumph to their free institutions, and challenge comparison with the fruits they bear, as well as with the moderation, intelligence, and energy, with which they are administered; from such a people, the deepest sympathy was to be ex-

SATURDAY, May 29.

Louisville and Portland Canal.

The bill from the Senate to authorize a subscription to the stock of the Louisville and Portland Canal Company, was finally passed.

The bill from the Senate authorizing a subscription to the stock of the Washington and Frederick Road Company, was finally passed.

Massachusetts Militia Claim.

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pected in a struggle for the sacred principles of liberty, conducted in a spirit every way worthy of the cause, and crowned by an heroic moderation which has disarmed revolution of its terrors. Notwithstanding the strong assurances which the man whom we so sincerely love and justly admire has given to the world of the high character of the present King of the French, and which, if sustained to the end, will secure to him the proud appellation of Patriot King, it is not in his success, but in that of the great principle which has borne him to the throne—the paramount authority of the public will—that the American people rejoice.

I am happy to inform you that the anticipations which were indulged at the date of my last communication on the subject of our foreign affairs, have been fully realized in several important particulars.

An arrangement has been effected with Great Britain, in relation to the trade between the United States and her West India and North American colonies, which has settled a question that has for years afforded matter for contention and almost uninterrupted discussion, and has been the subject of no less than six negotiations, in a manner which promises results highly favorable to the parties.

The abstract right of Great Britain to monopolize the trade with her colonies, or to exclude us from a participation therein, has never been denied by the United States. But we have contended, and with reason, that if, at any time, Great Britain may desire the productions of this country as necessary to her colonies, they must be received upon principles of just reciprocity; and further, that it is making an invidious and unfriendly distinction, to open her colonial ports to the vessels of other nations, and close them against those of the United States.

Antecedently to 1794, a portion of our productions was admitted into the colonial islands of Great Britain, by particular concession, limited to the term of one year, but renewed from year to year. In the transportation of these productions, however, our vessels were not allowed to engage; this being a privilege reserved to British shipping, by which alone our produce could be taken to the islands, and theirs brought to us in return. From Newfoundland and her continental possessions, all our productions, as well as our vessels, were excluded, with occasional relaxations, by which, in seasons of distress, the former were admitted in British bottoms.

By the treaty of 1794, she offered to concede to us, for a limited time, the right of carrying to her West India possessions, in our vessels not exceeding seventy tons burden, and upon the same terms as British vessels, any productions of the United States which British vessels might import therefrom. But this privilege was coupled with conditions which are supposed to have led to its rejection by the Senate; that is, that American vessels should land their return cargoes in the United States only; and, moreover, that they should, during the continuance of the privilege, be precluded from carrying molasses, sugar, coffee, cocoa, or cotton, either from those islands or from the United States, to any other part of the world. Great Britain readily consented to expunge this article from the treaty; and subsequent attempts to arrange the terms of the trade, either by treaty stipulations or concerted legislation, having failed, it has been successively suspended and allowed, according to the varying legislation of the parties.

The following are the prominent points which have, in later years, separated the two Governments. Besides a restriction, whereby all importations into her colonies in American vessels are confined to our own products, carried hence, a restriction to which it does not appear that we have ever objected, a leading object on the part of Great Britain has been to prevent us from becoming the carriers of British West India commodities to any other country than our own. On the part of the United States, it has been contended, 1st. That the subject should be regulated by treaty stipulations in preference to separate legislation; 2d. That our productions, when imported into the colonies in question, should not be subject to higher duties than the productions of the mother country, or of her other colonial possessions; and 3d. That our vessels should be allowed to participate in the circuitous trade between the United States and different parts of the British dominions.

The first point, after having been, for a long time, strenuously insisted upon by Great Britain, was given up by the act of Parliament of July, 1825; all vessels suffered to trade with the colonies being permitted to clear from thence with any articles which British vessels might export; and proceed to any part of the world, Great Britain and her dependencies alone excepted. On our part, each of the above points had, in succession, been explicitly abandoned in negotiations preceding that of which the result is now announced.

This arrangement secures to the United States every advantage asked by them, and which the state of the negotiation allowed us to insist upon. The trade will be placed upon a footing decidedly more favorable to this country than any on which it ever stood; and our commerce and navigation will enjoy, in the colonial ports of Great Britain, every privilege allowed to other nations.

That the prosperity of the country, so far as it depends on this trade, will be greatly promoted by the new arrangement, there can be no doubt. Independently of the more obvious advantages of an open and direct intercourse, its establishment will be attended with other consequences of a higher value. That which has been carried on since the mutual interdict under all the expense and inconvenience unavoidably incident to it, would have been insupportably onerous, had it not been, in a great degree, lightened by concerted evasions in the mode of making the transshipments at what are called the neutral ports. These indirections are inconsistent with the dignity of nations that have so many motives, not only to cherish feelings of mutual friendship, but to maintain such relations as will stimulate their respective citizens and subjects to efforts of direct, open, and honorable competition only; and preserve them from the influence of seductive and vitiating circumstances.

When your preliminary interposition was asked at the close of the last session, a copy of the instructions under which Mr. McLane has acted, together with the communications which had at that time passed between him and the British Government, was laid before you. Although there has not been any thing in the acts of the two Governments which requires secrecy, it was thought most proper, in the then state of the negotiation, to make that communication a confidential one. So soon,

however, as the evidence of execution on the part of Great Britain is received, the whole matter shall be laid before you, when it will be seen that the apprehension which appears to have suggested one of the provisions of the act passed at your last session, that the restoration of the trade in question might be connected with other subjects, and was sought to be obtained at the sacrifice of the public interest in other particulars, was wholly unfounded; and that the change which has taken place in the views of the British Government has been induced by considerations as honorable to both parties, as, I trust, the result will prove beneficial.

This desirable result was, it will be seen, greatly promoted by the liberal and confiding provisions of the act of Congress of the last session, by which our ports were, upon the reception and annunciation by the President of the required assurance on the part of Great Britain, forthwith opened to her vessels, before the arrangement could be carried into effect on her part; pursuing, in this act of prospective legislation, a similar course to that adopted by Great Britain, in abolishing, by her act of Parliament, in 1825, a restriction then existing, and permitting our vessels to clear from the colonies, on their return voyages, for any foreign country whatever, before British vessels had been relieved from the restriction imposed by our law, of returning directly from the United States to the colonies —a restriction which she required and expected that we should abolish. Upon each occasion, a limited and temporary advantage has been given to the opposite party, but an advantage of no importance in comparison with the restoration of mutual confidence and good feelings, and the ultimate establishment of the trade upon fair principles.

It gives me unfeigned pleasure to assure you that this negotiation has been, throughout, characterized by the most frank and friendly spirit on the part of Great Britain, and concluded in a manner strongly indicative of a sincere desire to cultivate the best relations with the United States. To reciprocate this disposition to the fullest extent of my ability, is a duty which I shall deem it a privilege to discharge.

Although the result is, itself, the best commentary on the services rendered to his country by our Minister at the court of St. James, it would be doing violence to my feelings were I to dismiss the subject without expressing the very high sense I entertain of the talent and exertion which have been displayed by him on the occasion.

The injury to the commerce of the United States resulting from the exclusion of our vessels from the Black Sea, and the previous footing of mere sufferance upon which even the limited trade enjoyed by us with Turkey has hitherto been placed, have, for a long time, been a source of much solicitude to this Government; and several endeavors have been made to obtain a better state of things. Sensible of the importance of the object, I felt it my duty to leave no proper means unemployed to acquire for our flag the same privileges that are enjoyed by the principal powers of Europe. Commissioners were, consequently, appointed to open a negotiation with the Sublime Porte. Not long after the member of the commission who went directly from the United States had sailed, the account of the treaty of Adrianople, by which one of the objects in view was supposed to be secured, reached this country. The Black Sea was understood to be opened to us. Under the supposition that this was the case, the additional facilities to be derived from the establishment of commercial regulations with the Porte were deemed of sufficient importance to require a prosecution of the negotiation as originally contemplated. It was, therefore, persevered in, and resulted in a treaty, which will be forthwith laid before the Senate.

By its provisions, a free passage is secured, without limitation of time, to the vessels of the United States, to and from the Black Sea, including the navigation thereof; and our trade with Turkey is placed on the footing of the most favored nation. The latter is an arrangement wholly independent of the treaty of Adrianople; and the former derives much value, not only from the increased security which, under any circumstances, it would give to the right in question, but from the fact, ascertained in the course of the negotiation, that, by the construction put upon that treaty by Turkey, the article relating to the passage of the Bosphorus is confined to nations having treaties with the Porte. The most friendly feelings appear to be entertained by the Sultan, and an enlightened disposition is evinced by him to foster the intercourse between the two countries by the most liberal arrangements. This disposition it will be our duty and interest to cherish.

Our relations with Russia are of the most stable character. Respect for that Empire, and confidence in its friendship towards the United States, have been so long entertained on our part, and so carefully cherished by the present Emperor and his illustrious predecessor, as to have become incorporated with the public sentiment of the United States. No means will be left unemployed on my part to promote these salutary feelings, and those improvements of which the commercial intercourse between the two countries is susceptible, and which have derived increased importance from our treaty with the Sublime Porte.

I sincerely regret to inform you that our Minister lately commissioned to that Court, on whose distinguished talents and great experience in public affairs I place great reliance, has been compelled, by extreme indisposition, to exercise a privilege, which, in consideration of the extent to which his constitution has been impaired in the public service, was committed to his discretion—of leaving temporarily his post for the advantage of a more genial climate.

If, as it is to be hoped, the improvement of his health should be such as to justify him in doing so, he will repair to St. Petersburg, and resume the discharge of his official duties. I have received the most satisfactory assurance that, in the mean time, the public interests in that quarter will be preserved from prejudice, by the intercourse which he will continue, through the Secretary of Legation, with the Russian cabinet.

You are apprised, although the fact has not yet been officially announced to the House of Representatives, that a treaty was, in the month of March last, concluded between the United States and Denmark, by which $650,000 are secured to our citizens as an indemnity for spoliations upon their commerce in the years 1808, 1809, 1810, and 1811. This treaty was sanctioned by the Senate at the close of its last session, and it now becomes the duty of Congress to pass the necessary laws for the organization of the Board of Commissioners to

distribute the indemnity amongst the claimants. It is an agreeable circumstance of this adjustment, that its terms are in conformity with the previously ascertained views of the claimants themselves; thus removing all pretence for a future agitation of the subject in any form.

The negotiations in regard to such points in our foreign relations as remained to be adjusted, have been actively prosecuted during the recess. Material advances have been made, which are of a character to promise favorable results. Our country, by the blessing of God, is not in a situation to invite aggression; and it will be our fault if she ever becomes so. Sincerely desirous to cultivate the most liberal and friendly relations with all; ever ready to fulfil our engagements with scrupulous fidelity; limiting our demands upon others to mere justice; holding ourselves ever ready to do unto them as we would wish to be done by, and avoiding even the appearance of undue partiality to any nation, it appears to me impossible that a simple and sincere application of our principles to our foreign relations can fail to place them ultimately upon the footing on which it is our wish they should rest.

Of the points referred to, the most prominent are, our claims upon France for spoliations upon our commerce; similar claims upon Spain, together with embarrassments in the commercial intercourse between the two countries, which ought to be removed; the conclusion of the treaty of commerce and navigation with Mexico, which has been so long in suspense, as well as the final settlement of limits between ourselves and that republic; and, finally, the arbitrament of the question between the United States and Great Britain in regard to the northeastern boundary.

The negotiation with France has been conducted by our Minister with zeal and ability, and in all respects to my entire satisfaction. Although the prospect of a favorable termination was occasionally dimmed by counter pretensions, to which the United States could not assent, he yet had strong hopes of being able to arrive at a satisfactory settlement with the late Government. The negotiation has been renewed with the present authorities; and, sensible of the general and lively confidence of our citizens in the justice and magnanimity of regenerated France, I regret the more not to have it in my power, yet, to announce the result so confidently anticipated. No ground, however, inconsistent with this expectation, has been taken; and I do not allow myself to doubt that justice will soon be done to us. The amount of the claims, the length of time they have remained unsatisfied, and their incontrovertible justice, make an earnest prosecution of them by this Government an urgent duty. The illegality of the seizures and confiscations out of which they have arisen is not disputed; and whatever distinctions may have heretofore been set up in regard to the liability of the existing Government, it is quite clear that such considerations cannot now be interposed.

The commercial intercourse between the two countries is susceptible of highly advantageous improvements; but the sense of this injury has had, and must continue to have, a very unfavorable influence upon them. From its satisfactory adjustment, not only a firm and cordial friendship, but a progressive development of all their relations, may be expected. It is, therefore, my earnest hope that this old and vexatious subject of difference may be speedily removed.

I feel that my confidence in our appeal to the motives which should govern a just and magnanimous nation, is alike warranted by the character of the French people, and by the high voucher we possess for the enlarged views and pure integrity of the monarch who now presides over their councils; and nothing shall be wanting on my part to meet any manifestation of the spirit we anticipate in one of corresponding frankness and liberality.

The subjects of difference with Spain have been brought to the view of that Government, by our Minister there, with much force and propriety; and the strongest assurances have been received of their early and favorable consideration.

The steps which remained to place the matter in controversy between Great Britain and the United States fairly before the arbitrator, have all been taken in the same liberal and friendly spirit which characterized those before announced. Recent events have doubtless served to delay the decision, but our Minister at the Court of the distinguished arbitrator has been assured that it will be made within the time contemplated by the treaty.

I am particularly gratified in being able to state that a decidedly favorable, and, as I hope, lasting change has been effected in our relations with the neighboring republic of Mexico. The unfortunate and unfounded suspicions in regard to our disposition, which it became my painful duty to advert to on a former occasion, have been, I believe, entirely removed; and the Government of Mexico has been made to understand the real character of the wishes and views of this in regard to that country. The consequence is, the establishment of friendship and mutual confidence. Such are the assurances which I have received, and I see no cause to doubt their sincerity.

I had reason to expect the conclusion of a commercial treaty with Mexico in season for communication on the present occasion. Circumstances which are not explained, but which, I am persuaded, are not the result of an indisposition on her part to enter into it, have produced the delay.

There was reason to fear, in the course of the last summer, that the harmony of our relations might be disturbed by the acts of certain claimants, under Mexican grants, of territory which has hitherto been under our jurisdiction. The co-operation of the representative of Mexico near this Government was asked on the occasion, and was readily afforded. Instructions and advice have been given to the Governor of Arkansas and the officers in command in the adjoining Mexican State, by which, it is hoped, the quiet of that frontier will be preserved, until a final settlement of the dividing line shall have removed all ground of controversy.

The exchange of ratifications of the treaty concluded last year with Austria has not yet taken place. The delay has been occasioned by the non-arrival of the ratification of that Government within the time prescribed by the treaty. Renewed authority has been asked for by the representative of Austria; and, in the mean time, the rapidly increasing trade and navigation between the two countries have been placed upon the most liberal footing of our navigation acts.

Several alleged depredations have been recently committed on our commerce by the national vessels of Portugal. They have been made the subject

of immediate remonstrance and reclamation. I am not yet possessed of sufficient information to express a definitive opinion of their character, but expect soon to receive it. No proper means shall be omitted to obtain for our citizens all the redress to which they may appear to be entitled.

Almost at the moment of the adjournment of your last session, two bills, the one entitled "An act for making appropriations for building lighthouses, lightboats, beacons, and monuments, placing buoys, and for improving harbors and directing surveys," and the other, "An act to authorize a subscription for stock in the Louisville and Portland Canal Company," were submitted for my approval. It was not possible, within the time allowed me, before the close of the session, to give these bills the consideration which was due to their character and importance; and I was compelled to retain them for that purpose. I now avail myself of this early opportunity to return them to the Houses in which they respectively originated, with the reasons which, after mature deliberation, compel me to withhold my approval.

The practice of defraying out of the Treasury of the United States the expenses incurred by the establishment and support of lighthouses, beacons, buoys, and public piers, within the bays, inlets, harbors, and ports of the United States, to render the navigation thereof safe and easy, is coeval with the adoption of the Constitution, and has been continued without interruption or dispute.

As our foreign commerce increased, and was extended into the interior of the country by the establishment of ports of entry and delivery upon our navigable rivers, the sphere of those expenditures received a corresponding enlargement. Lighthouses, beacons, buoys, public piers, and the removal of sand bars, sawyers, and other partial or temporary impediments in the navigable rivers and harbors which were embraced in the revenue districts from time to time established by law, were authorized upon the same principle, and the expense defrayed in the same manner. That these expenses have at times been extravagant and disproportionate, is very probable. The circumstances under which they are incurred, are well calculated to lead to such a result, unless their application is subjected to the closest scrutiny. The local advantages arising from the disbursement of public money too frequently, it is to be feared, invite appropriations for objects of this character that are neither necessary nor useful. The number of lighthouse keepers is already very large, and the bill before me proposes to add to it fifty-one more, of various descriptions. From representations upon the subject, which are understood to be entitled to respect, I am induced to believe that there has not only been great improvidence in the past expenditures of the Government upon these objects, but that the security of navigation has, in some instances, been diminished by the multiplication of lighthouses, and consequent change of lights, upon the coast. It is in this, as in other respects, our duty to avoid all unnecessary expense, as well as every increase of patronage not called for by the public service. But, in the discharge of that duty in this particular, it must not be forgotten that, in relation to our foreign commerce, the burden and benefit of protecting and accommodating it necessarily go together, and must do so as long as the public revenue is drawn from the people through the custom house. It is indisputable, that whatever gives facility and security to navigation, cheapens imports; and all who consume them are alike interested in whatever produces this effect. If they consume, they ought, as they now do, to pay; otherwise, they do not pay. The consumer in the most inland State derives the same advantage from every necessary and prudent expenditure for the facility and security of our foreign commerce and navigation, that he does who resides in a maritime State. Local expenditures have not, of themselves, a correspondent operation.

From a bill making *direct* appropriations for such objects, I should not have withheld my assent. The one now returned does so in several particulars, but it also contains appropriations for surveys of a local character, which I cannot approve. It gives me satisfaction to find that no serious inconvenience has arisen from withholding my approval from this bill; nor will it, I trust, be cause of regret that an opportunity will be thereby afforded for Congress to review its provisions under circumstances better calculated for full investigation than those under which it was passed.

In speaking of direct appropriations, I mean not to include a practice which has obtained to some extent, and to which I have, in one instance, in a different capacity, given my assent—that of subscribing to the stock of private associations. Positive experience, and a more thorough consideration of the subject, have convinced me of the impropriety as well as inexpediency of such investments. All improvements effected by the funds of the nation, for general use, should be open to the enjoyment of all our fellow-citizens, exempt from the payment of tolls, or any imposition of that character. The practice of thus mingling the concerns of the Government with those of the States or of individuals, is inconsistent with the object of its institution, and highly impolitic. The successful operation of the federal system can only be preserved by confining it to the few and simple, but yet important objects for which it was designed.

A different practice, if allowed to progress, would ultimately change the character of this Government, by consolidating into one the General and State Governments, which were intended to be kept forever distinct. I cannot perceive how bills authorizing such subscriptions can be otherwise regarded than as bills for revenue, and consequently subject to the rule in that respect prescribed by the constitution. If the interest of the Government in private companies is subordinate to that of individuals, the management and control of a portion of the public funds is delegated to an authority unknown to the constitution, and beyond the supervision of our constituents; if superior, its officers and agents will be constantly exposed to imputations of favoritism and oppression. Direct prejudice to the public interest, or an alienation of the affections and respect of portions of the people, may, therefore, in addition to the general discredit resulting to the Government from embarking with its constituents in pecuniary speculations, be looked for as the probable fruit of such associations. It is no answer to this objection to say that the extent of consequences like these cannot be great from a limited and small number of investments; because experience in other matters teaches us, and we are not at liberty to disregard its admonitions, that, unless an entire stop be put to them, it will soon

be impossible to prevent their accumulation, until they are spread over the whole country, and made to embrace many of the private and appropriate concerns of individuals.

The power which the General Government would acquire within the several States by becoming the principal stockholder in corporations, controlling every canal and each sixty or hundred miles of every important road, and giving a proportionate vote in all their elections, is almost inconceivable, and, in my view, dangerous to the liberties of the people.

This mode of aiding such works is, also, in its nature, deceptive, and in many cases conducive to improvidence in the administration of the national funds. Appropriations will be obtained with much greater facility, and granted with less security to the public interest, when the measure is thus disguised, than when definite and direct expenditures of money are asked for. The interests of the nation would doubtless be better served by avoiding all such indirect modes of aiding particular objects. In a Government like ours, more especially, should all public acts be, as far as practicable, simple, and undisguised, and intelligible, that they may become fit subjects for the approbation or animadversion of the people. The bill authorizing a subscription to the Louisville and Portland Canal affords a striking illustration of the difficulty of withholding additional appropriations for the same object, when the first erroneous step has been taken by instituting a partnership between the Government and private companies. It proposes a third subscription on the part of the United States, when each preceding one was at the time regarded as the extent of the aid which Government was to render to that work; and the accompanying bill for light-houses, &c., contains an appropriation for a survey of the bed of the river, with a view to its improvement, by removing the obstruction which the canal is designed to avoid. This improvement, if successful, would afford a free passage to the river, and render the canal entirely useless. To such improvidence is the course of legislation subject, in relation to internal improvements on local matters, even with the best intentions on the part of Congress.

Although the motives which have influenced me in this matter may be already sufficiently stated, I am, nevertheless, induced by its importance, to add a few observations of a general character.

In my objections to the bills authorizing subscriptions to the Maysville and Rockville Road Companies, I expressed my views fully in regard to the power of Congress to construct roads and canals within a State, or to appropriate money for improvements of a local character. I, at the same time, intimated my belief that the right to make appropriations for such as were of a national character had been so generally acted upon, and so long acquiesced in by the Federal and State Governments, and the constituents of each, as to justify its exercise on the ground of continued and uninterrupted usage; but that it was, nevertheless, highly expedient that appropriations, even of that character, should, with the exception made at the time, be deferred until the national debt is paid, and that, in the meanwhile, some general rule for the action of the Government in that respect ought to be established.

These suggestions were not necessary to the decision of the question then before me; and were, I readily admit, intended to awaken the attention, and draw forth the opinions and observations of our constituents upon a subject of the highest importance to their interests, and one destined to exert a powerful influence upon the future operations of our political system. I know of no tribunal to which a public man in this country, in a case of doubt and difficulty, can appeal with greater advantage or more propriety, than the judgment of the people; and although I must necessarily, in the discharge of my official duties, be governed by the dictates of my own judgment, I have no desire to conceal my anxious wish to conform, as far as I can, to the views of those for whom I act.

All irregular expressions of public opinion are of necessity attended with some doubt as to their accuracy; but, making full allowances on that account, I cannot, I think, deceive myself in believing that the acts referred to, as well as the suggestions which I allowed myself to make in relation to their bearing upon the future operations of the Government, have been approved by the great body of the people. That those whose immediate pecuniary interests are to be affected by proposed expenditures should shrink from the application of a rule which prefers their more general and remote interests to those which are personal and immediate, is to be expected. But even such objections must, from the nature of our population, be but temporary in their duration; and if it were otherwise, our course should be the same, for the time is yet, I hope, far distant, when those intrusted with power to be exercised for the good of the whole, will consider it either honest or wise to purchase local favor at the sacrifice of principle and the general good.

So understanding public sentiment, and thoroughly satisfied that the best interests of our common country imperiously require that the course which I have recommended in this regard should be adopted, I have, upon the most mature consideration, determined to pursue it.

It is due to candor, as well as to my own feelings, that I should express the reluctance and anxiety which I must at all times experience in exercising the undoubted right of the Executive to withhold his assent from bills on other grounds than their unconstitutionality. That this right should not be exercised on slight occasions, all will admit. It is only in matters of deep interest, when the principle involved may be justly regarded as next in importance to infractions of the constitution itself, that such a step can be expected to meet with the approbation of the people. Such an occasion do I conscientiously believe the present to be. In the discharge of this delicate and highly responsible duty, I am sustained by the reflection that the exercise of this power has been deemed consistent with the obligation of official duty by several of my predecessors; and by the persuasion, too, that whatever liberal institutions may have to fear from the encroachments of Executive power, which has been everywhere the cause of so much strife and bloody contention, but little danger is to be apprehended from a precedent by which that authority denies to itself the exercise of powers that bring in their train influence and patronage of great extent; and thus excludes the operation of personal interests, everywhere the bane of official trust. I derive, too, no small degree of satisfaction from the

reflection, that, if I have mistaken the interests and wishes of the people, the constitution affords the means of soon redressing the error, by selecting for the place their favor has bestowed upon me a citizen whose opinions may accord with their own. I trust, in the mean time, the interests of the nation will be saved from prejudice, by a rigid application of that portion of the public funds which might otherwise be applied to different objects—to that highest of all our obligations, the payment of the public debt, and an opportunity be afforded for the adoption of some better rule for the operations of the Government in this matter than any which has hitherto been acted upon.

Profoundly impressed with the importance of the subject, not merely as it relates to the general prosperity of the country, but to the safety of the federal system, I cannot avoid repeating my earnest hope that all good citizens, who take a proper interest in the success and harmony of our admirable political institutions; and who are incapable of desiring to convert an opposite state of things into means for the gratification of personal ambition—will, laying aside minor considerations, and discarding local prejudices, unite their honest exertions to establish some fixed general principle, which shall be calculated to effect the greatest extent of public good in regard to the subject of internal improvement, and afford the least ground for sectional discontent.

The general ground of my objection to local appropriations has been heretofore expressed; and I shall endeavor to avoid a repetition of what has been already urged—the importance of sustaining the State sovereignties, as far as is consistent with the rightful action of the Federal Government, and of preserving the greatest attainable harmony between them. I will now only add an expression of my conviction—a conviction which every day's experience serves to confirm—that the political creed which inculcates the pursuit of those great objects as a paramount duty is the true faith, and one to which we are mainly indebted for the present success of the entire system, and to which we must alone look for its future stability.

That there are diversities in the interests of the different States which compose this extensive confederacy, must be admitted. Those diversities, arising from situation, climate, population, and pursuits, are doubtless, as it is natural they should be, greatly exaggerated by jealousies, and that spirit of rivalry so inseparable from neighboring communities. These circumstances make it the duty of those who are intrusted with the management of its affairs to neutralize their effects as far as practicable, by making the beneficial operation of the Federal Government as equal and equitable among the several States as can be done consistently with the great ends of its institution.

It is only necessary to refer to undoubted facts, to see how far the past acts of the Government upon the subject under consideration have fallen short of this object. The expenditures heretofore made for internal improvements amount to upwards of five millions of dollars, and have been distributed in very unequal proportions amongst the States. The estimated expense of works of which surveys have been made, together with that of others projected and partially surveyed, amount to more than ninety-six millions of dollars.

That such improvements, on account of particular circumstances, may be more advantageously and beneficially made in some States than in others, is doubtless true; but that they are of a character which should prevent an equitable distribution of the funds amongst the several States, is not to be conceded. The want of this equitable distribution cannot fail to prove a prolific source of irritation amongst the States.

We have it constantly before our eyes, that professions of superior zeal in the cause of internal improvement, and a disposition to lavish the public funds upon objects of that character, are daily and earnestly put forth by aspirants to power, as constituting the highest claims to the confidence of the people. Would it be strange, under such circumstances, and in times of great excitement, that grants of this description should find their motives in objects which may not accord with the public good? Those who have not had occasion to see and regret the indication of a sinister influence in these matters in past times, have been more fortunate than myself in their observation of the course of public affairs. If to these evils be added the combinations and angry contentions to which such a course of things gives rise, with their baleful influences upon the legislation of Congress touching the leading and appropriate duties of the Federal Government, it was but doing justice to the character of our people to expect the severe condemnation of the past which the recent exhibition of public sentiment has evinced.

Nothing short of a radical change in the action of the Government upon the subject, can, in my opinion, remedy the evil. If, as it would be natural to expect, the States which have been least favored in past appropriations should insist on being redressed in those hereafter to be made, at the expense of the States which have so largely and disproportionately participated, we have, as matters now stand, but little security that the attempt would do more than change the inequality from one quarter to another.

Thus viewing the subject, I have heretofore felt it my duty to recommend the adoption of some plan for the distribution of the surplus funds which may at any time remain in the Treasury after the national debt shall have been paid, among the States, in proportion to the number of their representatives, to be applied by them to objects of internal improvement.

Although this plan has met with favor in some portions of the Union, it has also elicited objections which merit deliberate consideration. A brief notice of these objections here will not, therefore, I trust, be regarded as out of place.

They rest, as far as they have come to my knowledge, on the following grounds: 1st, an objection to the ratio of distribution; 2d, an apprehension that the existence of such a regulation would produce improvident and oppressive taxation to raise the funds for distribution; 3d, that the mode proposed would lead to the construction of works of a local nature, to the exclusion of such as are general, and as would consequently be of a more useful character; and, last, that it would create a discreditable and injurious dependence, on the part of the State Governments, upon the federal power. Of those who object to the ratio of representation as the basis of distribution, some insist that the importations of the respective States would constitute one that would be more equitable; and others,

again, that the extent of their respective territories would furnish a standard which would be more expedient, and sufficiently equitable. The ratio of representation presented itself to my mind, and it still does, as one of obvious equity, because of its being the ratio of contribution, whether the funds to be distributed be derived from the customs or from direct taxation. It does not follow, however, that its adoption is indispensable to the establishment of the system proposed. There may be considerations appertaining to the subject which would render a departure, to some extent, from the rule of contribution, proper. Nor is it absolutely necessary that the basis of distribution be confined to one ground. It may, if, in the judgment of those whose right it is to fix it, it be deemed politic and just to give it that character, have regard to several.

In my first message, I stated it to be my opinion that "it is not probable that any adjustment of the tariff upon principles satisfactory to the people of the Union, will, until a remote period, if ever, leave the Government without a considerable surplus in the Treasury beyond what may be required for its current service." I have had no cause to change that opinion, but much to confirm it. Should these expectations be realized, a suitable fund would thus be produced for the plan under consideration to operate upon; and if there be no such fund, its adoption will, in my opinion, work no injury to any interest; for I cannot assent to the justness of the apprehension that the establishment of the proposed system would tend to the encouragement of improvident legislation of the character supposed. Whatever the proper authority, in the exercise of constitutional power, shall, at any time hereafter, decide to be for the general good, will, in that as in other respects, deserve and receive the acquiescence and support of the whole country; and we have ample security that every abuse of power in that regard, by the agents of the people, will receive a speedy and effectual corrective at their hands. The views which I take of the future, founded on the obvious and increasing improvement of all classes of our fellow-citizens, in intelligence, and in public and private virtue, leave me without much apprehension on that head.

I do not doubt that those who come after us will be as much alive as we are to the obligation upon all the trustees of political power to exempt those for whom they act from all unnecessary burdens; and as sensible of the great truth, that the resources of the nation, beyond those required for the immediate and necessary purposes of Government, can nowhere be so well deposited as in the pockets of the people.

It may sometimes happen that the interests of particular States would not be deemed to coincide with the general interest in relation to improvement within such States. But, if the danger to be apprehended from this source is sufficient to require it, a discretion might be reserved to Congress to direct, to such improvements of a general character as the States concerned might not be disposed to unite in, the application of the quotas of those States, under the restriction of confining to each State the expenditure of its appropriate quota. It may, however, be assumed as a safe general rule, that such improvements as serve to increase the prosperity of the respective States in which they are made, by giving new facilities to trade, and thereby augmenting the wealth and comfort of their inhabitants, constitute the surest mode of conferring permanent and substantial advantages upon the whole. The strength, as well as the true glory, of the confederacy, is mainly founded on the prosperity and power of the several independent sovereignties of which it is composed, and the certainty with which they can be brought into successful, active co-operation, through the agency of the Federal Government.

It is, moreover, within the knowledge of such as are at all conversant with public affairs, that schemes of internal improvement have, from time to time, been proposed, which, from their extent and seeming magnificence, were regarded as of national concernment; but which, upon fuller consideration and further experience, would now be rejected with great unanimity.

That the plan under consideration would derive important advantages from its certainty; and that the moneys set apart for these purposes would be more judiciously applied and economically expended under the direction of the State Legislatures, in which every part of each State is immediately represented, cannot, I think, be doubted. In the new States particularly, where a comparatively small population is scattered over an extensive surface, and the representation in Congress consequently very limited, it is natural to expect that the appropriations made by the Federal Government would be more likely to be expended in the vicinity of those members through whose immediate agency they were obtained, than if the funds were placed under the control of the Legislature, in which every county of the State has its own representative. This supposition does not necessarily impugn the motives of such Congressional representatives, nor is it so intended. We are all sensible of the bias to which the strongest minds and purest hearts are, under such circumstances, liable. In respect to the last objection, its probable effect upon the dignity and independence of the State Governments, it appears to me only necessary to state the case as it is, and as it would be if the measure proposed were adopted, to show that the operation is most likely to be the very reverse of that which the objection supposes.

In the one case, the State would receive its quota of the national revenue for domestic use, upon a fixed principle, as a matter of right, and from a fund to the creation of which it had itself contributed its fair proportion. Surely there could be nothing derogatory in that. As matters now stand, the States themselves, in their sovereign character, are not unfrequently petitioners at the bar of the Federal Legislature for such allowances out of the national Treasury as it may comport with their pleasure or sense of duty to bestow upon them. It cannot require argument to prove which of the two courses is most compatible with the efficiency or respectability of the State Governments.

But all these are matters for discussion and dispassionate consideration. That the desired adjustment would be attended with difficulty, affords no reason why it should not be attempted. The effective operation of such motives would have prevented the adoption of the constitution under which we have so long lived, and under the benign influence of which our beloved country has so signally prospered. The framers of that sacred instrument had greater difficulties to overcome, and they did overcome them. The patriotism of the

people, directed by a deep conviction of the importance of the Union, produced mutual concession and reciprocal forbearance. Strict right was merged in a spirit of compromise, and the result has consecrated their disinterested devotion to the general weal. Unless the American people have degenerated, the same result can be again effected, whenever experience points out the necessity of a resort to the same means to uphold the fabric which their fathers have reared. It is beyond the power of man to make a system of government like ours, or any other, operate with precise equality upon States situated like those which compose this confederacy; nor is inequality always injustice. Every State cannot expect to shape the measures of the General Government to suit its own particular interests. The causes which prevent it are seated in the nature of things, and cannot be entirely counteracted by human means. Mutual forbearance, therefore, becomes a duty obligatory upon all; and we may, I am confident, count on a cheerful compliance with this high injunction, on the part of our constituents. It is not to be supposed that they will object to make such comparatively inconsiderable sacrifices for the preservation of rights and privileges, which other less favored portions of the world have in vain waded through seas of blood to acquire.

Our course is a safe one, if it be but faithfully adhered to. Acquiescence in the constitutionally expressed will of the majority, and the exercise of that will in a spirit of moderation, justice, and brotherly kindness, will constitute a cement which would forever preserve our Union. Those who cherish and inculcate sentiments like these, render a most essential service to their country; whilst those who seek to weaken their influence, are, however conscientious and praiseworthy their intentions, in effect its worst enemies.

If the intelligence and influence of the country, instead of laboring to foment sectional prejudices, to be made subservient to party warfare, were, in good faith, applied to the eradication of causes of local discontent, by the improvement of our institutions, and by facilitating their adaptation to the condition of the times, this task would prove one of less difficulty. May we not hope that the obvious interests of our common country, and the dictates of an enlightened patriotism, will, in the end, lead the public mind in that direction.

After all, the nature of the subject does not admit of a plan wholly free from objection. That which has for some time been in operation is, perhaps, the worst that could exist; and every advance that can be made in its improvement is a matter eminently worthy of your most deliberate attention.

It is very possible that one better calculated to effect the objects in view may yet be devised. If so, it is to be hoped that those who disapprove of the past, and dissent from what is proposed for the future, will feel it their duty to direct their attention to it, as they must be sensible that, unless some fixed rule for the action of the Federal Government in this respect is established, the course now attempted to be arrested will be again resorted to. Any mode which is calculated to give the greatest degree of effect and harmony to our legislation upon the subject—which shall best serve to keep the movements of the Federal Government within the sphere intended by those who modelled and those who adopted it—which shall lead to the extinguishment of the national debt in the shortest period, and impose the lightest burdens upon our constituents, shall receive from me a cordial and firm support.

Among the objects of great national concern, I cannot omit to press again upon your attention that part of the constitution which regulates the election of President and Vice President. The necessity for its amendment is made so clear to my mind by the observation of its evils, and by the many able discussions which they have elicited on the floor of Congress and elsewhere, that I should be wanting to my duty were I to withhold another expression of my deep solicitude upon the subject. Our system fortunately contemplates a recurrence to first principles, differing, in this respect, from all that have preceded it, and securing it, I trust, equally against the decay and the commotions which have marked the progress of other Governments. Our fellow-citizens, too, who, in proportion to their love of liberty, keep a steady eye upon the means of sustaining it, do not require to be reminded of the duty they owe to themselves to remedy all essential defects in so vital a part of their system. While they are sensible that every evil attendant upon its operation is not necessarily indicative of a bad organization, but may proceed from temporary causes, yet the habitual presence, or even a single instance of evils which can be clearly traced to an organic defect, will not, I trust, be overlooked through a too scrupulous veneration for the work of their ancestors. The constitution was an experiment committed to the virtue and intelligence of the great mass of our countrymen, in whose ranks the framers of it themselves were to perform the part of patriotic observation and scrutiny; and if they have passed from the stage of existence with an increased confidence in its general adaptation to our condition, we should learn from authority so high the duty of fortifying the points in it which time proves to be exposed, rather than be deterred from approaching them by the suggestions of fear, or the dictates of misplaced reverence.

A provision which does not secure to the people a direct choice of their Chief Magistrate, but has a tendency to defeat their will, presented to my mind such an inconsistency with the general spirit of our institutions, that I was induced to suggest for your consideration the substitute which appeared to me at the same time the most likely to correct the evil, and to meet the views of our constituents. The most mature reflection since has added strength to the belief that the best interests of our country require the speedy adoption of some plan calculated to effect this end. A contingency which sometimes places it in the power of a single member of the House of Representatives to decide an election of so high and solemn a character, is unjust to the people, and becomes, when it occurs, a source of embarrassment to the individuals thus brought into power, and a cause of distrust of the representative body. Liable as the confederacy is, from its great extent, to parties founded upon sectional interests, and to a corresponding multiplication of candidates for the Presidency, the tendency of the constitutional reference to the House of Representatives, is, to devolve the election upon that body in almost every instance, and, whatever choice may then be made among the candidates thus presented to

them, to swell the influence of particular interests to a degree inconsistent with the general good. The consequences of this feature of the constitution appear far more threatening to the peace and integrity of the Union than any which I can conceive as likely to result from the simple legislative action of the Federal Government.

It was a leading object with the framers of the constitution to keep as separate as possible the action of the Legislative and Executive branches of the Government. To secure this object, nothing is more essential than to preserve the former from the temptations of private interest, and, therefore, so to direct the patronage of the latter as not to permit such temptations to be offered. Experience abundantly demonstrates that every precaution in this respect is a valuable safeguard of liberty, and one which my reflections upon the tendencies of our system incline me to think should be made still stronger. It was for this reason that, in connection with an amendment of the constitution, removing all intermediate agency in the choice of the President, I recommended some restrictions upon the re-eligibility of that officer, and upon the tenure of offices generally. The reason still exists; and I renew the recommendation, with an increased confidence that its adoption will strengthen those checks by which the constitution designed to secure the independence of each department of the Government, and promote the healthful and equitable administration of all the trusts which it has created. The agent most likely to contravene this design of the constitution is the Chief Magistrate. In order, particularly, that his appointment may, as far as possible, be placed beyond the reach of any improper influences; in order that he may approach the solemn responsibilities of the highest office in the gift of a free people, uncommitted to any other course than the strict line of constitutional duty; and that the securities for this independence may be rendered as strong as the nature of power, and the weakness of its possessor, will admit, I cannot too earnestly invite your attention to the propriety of promoting such an amendment of the constitution as will render him ineligible after one term of service.

It gives me pleasure to announce to Congress that the benevolent policy of the Government, steadily pursued for nearly thirty years, in relation to the removal of the Indians beyond the white settlements, is approaching to a happy consummation. Two important tribes have accepted the provision made for their removal at the last session of Congress; and it is believed that their example will induce the remaining tribes, also, to seek the same obvious advantages.

The consequences of a speedy removal will be important to the United States, to individual States, and to the Indians themselves. The pecuniary advantages which it promises to the Government are the least of its recommendations. It puts an end to all possible danger of collision between the authorities of the General and State Governments, on account of the Indians. It will place a dense and civilized population in large tracts of country now occupied by a few savage hunters. By opening the whole territory between Tennessee on the north, and Louisiana on the south, to the settlement of the whites, it will incalculably strengthen the southwestern frontier, and render the adjacent States strong enough to repel future invasion without remote aid. It will relieve the whole State of Mississippi, and the western part of Alabama, of Indian occupancy, and enable those States to advance rapidly in population, wealth, and power. It will separate the Indians from immediate contact with settlements of whites; free them from the power of the States; enable them to pursue happiness in their own way, and under their own rude institutions; will retard the progress of decay, which is lessening their numbers; and perhaps cause them gradually, under the protection of the Government, and through the influence of good counsels, to cast off their savage habits, and become an interesting, civilized, and Christian community. These consequences, some of them so certain, and the rest so probable, make the complete execution of the plan sanctioned by Congress at their last session an object of much solicitude.

Toward the aborigines of the country no one can indulge a more friendly feeling than myself, or would go further in attempting to reclaim them from their wandering habits, and make them a happy and prosperous people. I have endeavored to impress upon them my own solemn convictions of the duties and powers of the General Government in relation to the State authorities. For the justice of the laws passed by the States within the scope of their reserved powers, they are not responsible to this Government. As individuals, we may entertain and express our opinions of their acts; but, as a Government, we have as little right to control them as we have to prescribe laws to foreign nations.

With a full understanding of the subject, the Choctaw and Chickasaw tribes have, with great unanimity, determined to avail themselves of the liberal offers presented by the act of Congress, and have agreed to remove beyond the Mississippi River. Treaties have been made with them, which, in due season, will be submitted for consideration. In negotiating these treaties, they were made to understand their true condition; and they have preferred maintaining their independence in the Western forests to submitting to the laws of the States in which they now reside. These treaties being probably the last which will ever be made with them, are characterized by great liberality on the part of the Government. They give the Indians a liberal sum in consideration of their removal, and comfortable subsistence on their arrival at their new homes. If it be their real interest to maintain a separate existence, they will there be at liberty to do so without the inconveniences and vexations to which they would unavoidably have been subject in Alabama and Mississippi.

Humanity has often wept over the fate of the aborigines of this country; and philanthropy has been long busily employed in devising means to avert it. But its progress has never for a moment been arrested; and one by one have many powerful tribes disappeared from the earth. To follow to the tomb the last of his race, and to tread on the graves of extinct nations, excites melancholy reflections. But true philanthropy reconciles the mind to these vicissitudes, as it does to the extinction of one generation to make room for another. In the monuments and fortresses of an unknown people, spread over the extensive regions of the West, we behold the memorials of a once powerful race, which was exterminated, or has disappeared, to make room for the existing savage tribes. Nor

is there any thing in this, which, upon a comprehensive view of the general interests of the human race, is to be regretted. Philanthropy could not wish to see this continent restored to the condition in which it was found by our forefathers. What good man would prefer a country covered with forests, and ranged by a few thousand savages, to our extensive republic, studded with cities, towns, and prosperous farms; embellished with all the improvements which art can devise, or industry execute; occupied by more than twelve millions of happy people, and filled with all the blessings of liberty, civilization, and religion!

The present policy of the Government is but a continuation of the same progressive change, by a milder process. The tribes which occupied the countries now constituting the Eastern States were annihilated, or have melted away, to make room for the whites. The waves of population and civilization are rolling to the westward; and we now propose to acquire the countries occupied by the red men of the south and west, by a fair exchange, and, at the expense of the United States, to send them to a land where their existence may be prolonged, and perhaps made perpetual. Doubtless it will be painful to leave the graves of their fathers; but what do they more than our ancestors did, or than our children are now doing? To better their condition in an unknown land, our forefathers left all that was dear in earthly objects. Our children, by thousands, yearly leave the land of their birth, to seek new homes in distant regions. Does humanity weep at these painful separations from every thing, animate and inanimate, with which the young heart has become entwined? Far from it. It is rather a source of joy that our country affords scope where our young population may range unconstrained in body or in mind, developing the power and faculties of man in their highest perfection. These remove hundreds, and almost thousands of miles, at their own expense, purchase the lands they occupy, and support themselves at their new home from the moment of their arrival. Can it be cruel in this Government, when, by events which it cannot control, the Indian is made discontented in his ancient home, to purchase his lands, to give him a new and extensive territory, to pay the expense of his removal, and support him a year in his new abode? How many thousands of our own people would gladly embrace the opportunity of removing to the West on such conditions! If the offers made to the Indians were extended to them, they would be hailed with gratitude and joy!

And is it supposed that the wandering savage has a stronger attachment to his home than the settled, civilized Christian? Is it more afflicting to him to leave the graves of his fathers, than it is to our brothers and children? Rightly considered, the policy of the General Government towards the red man is not only liberal but generous. He is unwilling to submit to the laws of the States, and mingle with their population. To save him from this alternative, or perhaps utter annihilation, the General Government kindly offers him a new home, and proposes to pay the whole expense of his removal and settlement.

In the consummation of a policy originating at an early period, and steadily pursued by every administration within the present century—so just to the States, and so generous to the Indians, the Executive feels it has a right to expect the cooperation of Congress, and of all good and disinterested men. The States, moreover, have a right to demand it. It was substantially a part of the compact which made them members of our confederacy. With Georgia, there is an express contract; with the new States, an implied one, of equal obligation. Why, in authorizing Ohio, Indiana, Illinois, Missouri, Mississippi, and Alabama, to form constitutions, and become separate States, did Congress include within their limits extensive tracts of Indian lands, and, in some instances, powerful Indian tribes? Was it not understood by both parties that the power of the States was to be co-extensive with their limits, and that, with all convenient despatch, the General Government should extinguish the Indian title, and remove every obstruction to the complete jurisdiction of the State Governments over the soil? Probably not one of those States would have accepted a separate existence—certainly it would never have been granted by Congress—had it been understood that they were to be confined forever to those small portions of their nominal territory, the Indian title to which had at the time been extinguished.

It is, therefore, a duty which this Government owes to the new States, to extinguish, as soon as possible, the Indian title to all lands which Congress themselves have included within their limits. When this is done, the duties of the General Government in relation to the States and Indians within their limits are at an end. The Indians may leave the State or not, as they choose. The purchase of their lands does not alter, in the least, their personal relations with the State Government. No act of the General Government has ever been deemed necessary to give the States jurisdiction over the persons of the Indians. That they possess, by virtue of their sovereign power within their own limits, in as full a manner before as after the purchase of the Indian lands; nor can this Government add to or diminish it.

May we not hope, therefore, that all good citizens, and none more zealously than those who think the Indians oppressed by subjection to the laws of the States, will unite in attempting to open the eyes of those children of the forest to their true condition; and, by a speedy removal, to relieve them from the evils, real or imaginary, present or prospective, with which they may be supposed to be threatened.

Among the numerous causes of congratulation, the condition of our impost revenue deserves special mention, inasmuch as it promises the means of extinguishing the public debt sooner than was anticipated, and furnishes a strong illustration of the practical effects of the present tariff upon our commercial interests.

The object of the tariff is objected to by some as unconstitutional; and it is considered by almost all as defective in many of its parts.

The power to impose duties on imports originally belonged to the several States. The right to adjust those duties with a view to the encouragement of domestic branches of industry is so completely incidental to that power, that it is difficult to suppose the existence of the one without the other. The States have delegated their whole authority over imports to the General Government, without limitation or restriction, saving the very inconsiderable reservation relating to their inspection laws.

This authority having thus entirely passed from the States, the right to exercise it for the purpose of protection does not exist in them; and, consequently, if it be not possessed by the General Government, it must be extinct. Our political system would thus present the anomaly of a people stripped of the right to foster their own industry, and to counteract the most selfish and destructive policy which might be adopted by foreign nations. This surely cannot be the case; this indispensable power, thus surrendered by the States, must be within the scope of the authority on the subject expressly delegated to Congress.

In this conclusion, I am confirmed as well by the opinions of Presidents Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended the exercise of this right under the constitution, as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people.

The difficulties of a more expedient adjustment of the present tariff, although great, are far from being insurmountable. Some are unwilling to improve any of its parts, because they would destroy the whole: others fear to touch the objectionable parts, lest those they approve should be jeoparded. I am persuaded that the advocates of these conflicting views do injustice to the American people, and to their Representatives. The general interest is the interest of each; and my confidence is entire, that, to ensure the adoption of such modifications of the tariff as the general interest requires, it is only necessary that that interest should be understood.

It is an infirmity of our nature to mingle our interests and prejudices with the operation of our reasoning powers, and attribute to the objects of our likes and dislikes qualities they do not possess, and effects they cannot produce. The effects of the present tariff are doubtless overrated, both in its evils and in its advantages. By one class of reasoners, the reduced price of cotton and other agricultural products is ascribed wholly to its influence; and by another, the reduced price of manufactured articles. The probability is, that neither opinion approaches the truth, and that both are induced by that influence of interests and prejudices to which I have referred. The decrease of prices extends throughout the commercial world, embracing not only the raw material and the manufactured article, but provisions and lands. The cause must, therefore, be deeper and more pervading than the tariff of the United States. It may, in a measure, be attributable to the increased value of the precious metals, produced by a diminution of the supply, and an increase in the demand; while commerce has rapidly extended itself, and population has augmented. The supply of gold and silver, the general medium of exchange, has been greatly interrupted by civil convulsions in the countries from which they are principally drawn. A part of the effect, too, is doubtless owing to an increase of operatives and improvements in machinery. But, on the whole, it is questionable whether the reduction in the price of lands, produce, and manufactures, has been greater than the appreciation of the standard of value.

While the chief object of duties should be revenue, they may be so adjusted as to encourage manufactures. In this adjustment, however, it is the duty of the Government to be guided by the general good. Objects of national importance, alone, ought to be protected; of these the productions of our soil, our mines, and our workshops, essential to national defence, occupy the first rank. Whatever other species of domestic industry, having the importance to which I have referred, may be expected, after temporary protection, to compete with foreign labor on equal terms, merit the same attention in a subordinate degree.

The present tariff taxes some of the comforts of life unnecessarily high; it undertakes to protect interests too local and minute to justify a general exaction; and it also attempts to force some kinds of manufactures, for which the country is not ripe. Much relief will be derived, in some of these respects, from the measures of your last session.

The best, as well as fairest mode of determining whether, from any just considerations, a particular interest ought to receive protection, would be to submit the question singly for deliberation. If, after due examination of its merits, unconnected with extraneous considerations—such as a desire to sustain a general system, or to purchase support for a different interest—it should enlist in its favor a majority of the Representatives of the people, there can be little danger of wrong or injury in adjusting the tariff, with reference to its protective effect. If this obviously just principle were honestly adhered to, the branches of industry which deserve protection, would be saved from the prejudice excited against them, when that protection forms part of a system by which portions of the country feel, or conceive themselves to be, oppressed. What is incalculably more important, the vital principle of our system—that principle which requires acquiescence in the will of the majority—would be secure from the discredit and danger to which it is exposed by the acts of majorities, founded, not on identity of conviction, but on combinations of small minorities, entered into for the purpose of mutual assistance in measures which, resting solely on their own merits, could never be carried.

I am well aware that this is a subject of so much delicacy, on account of the extended interests it involves, as to require that it should be touched with the utmost caution; and that, while an abandonment of the policy in which it originated—a policy coeval with our Government, and pursued through successive administrations, is neither to be expected nor desired, the people have a right to demand, and have demanded, that it be so modified as to correct abuses and obviate injustice.

That our deliberations on this interesting subject should be uninfluenced by those partisan conflicts that are incident to free institutions, is the fervent wish of my heart. To make this great question, which unhappily so much divides and excites the public mind, subservient to the short-sighted views of faction, must destroy all hope of settling it satisfactorily to the great body of the people, and for the general interest. I cannot, therefore, on taking leave of the subject, too earnestly for my own feelings or the common good, warn you against the blighting consequences of such a course.

According to the estimates at the Treasury Department, the receipts in the Treasury during the present year will amount to twenty-four millions one hundred and sixty-one thousand and eighteen dollars, which will exceed by about three hundred thousand dollars the estimate presented in the last annual report of the Secretary of the Treasury.

The total expenditure during the year, exclusive of public debt, is estimated at thirteen millions seven hundred and forty-two thousand three hundred and eleven dollars; and the payment on account of public debt for the same period will have been eleven millions three hundred and fifty-four thousand six hundred and thirty dollars; leaving a balance in the Treasury, on the 1st of January, 1831, of four millions eight hundred and nineteen thousand seven hundred and eighty-one dollars.

In connection with the condition of our finances, it affords me pleasure to remark that judicious and efficient arrangements have been made by the Treasury Department for securing the pecuniary responsibility of the public officers, and the more punctual payment of the public dues. The revenue cutter service has been organized, and placed on a good footing; and, aided by an increase of inspectors at exposed points, and the regulations adopted under the act of May, 1830, for the inspection and appraisement of merchandise, have produced much improvement in the execution of the laws, and more security against the commission of frauds upon the revenue. Abuses in the allowances for fishing bounties have also been corrected, and a material saving in that branch of the service, thereby effected. In addition to these improvements, the system of expenditure for sick seamen belonging to the merchant service has been revised; and, by being rendered uniform and economical, the benefits of the fund applicable to this object have been usefully extended.

The prosperity of our country is also further evinced by the increased revenue arising from the sale of public lands, as will appear from the report of the Commissioner of the General Land Office, and the documents accompanying it, which are herewith transmitted. I beg leave to draw your attention to this report, and to the propriety of making early appropriations for the objects which it specifies.

Your attention is again invited to the subjects connected with that portion of the public interests intrusted to the War Department. Some of them were referred to in my former Message; and they are presented in detail in the report of the Secretary of War, herewith submitted. I refer you also to the report of that officer for a knowledge of the state of the army, fortifications, arsenals, and Indian affairs; all of which, it will be perceived, have been guarded with zealous attention and care. It is worthy of your consideration whether the armaments necessary for the fortifications on our maritime frontier, which are now, or shortly will be, completed, should not be in readiness sooner than the customary appropriations will enable the Department to provide them. This precaution seems to be due to the general system of fortification which has been sanctioned by Congress, and is recommended by that maxim of wisdom which tells us in peace to prepare for war.

I refer you to the report of the Secretary of the Navy for a highly satisfactory account of the manner in which the concerns of that Department have been conducted during the present year. Our position in relation to the most powerful nations of the earth, and the present condition of Europe, admonish us to cherish this arm of our national defence with peculiar care. Separated by wide seas from all those Governments whose power we might have reason to dread, we have nothing to apprehend from attempts at conquest. It is chiefly attacks upon our commerce, and harassing inroads upon our coast, against which we have to guard. A naval force adequate to the protection of our commerce, always afloat, with an accumulation of the means to give it a rapid extension in case of need, furnishes the power by which all such aggressions may be prevented or repelled. The attention of the Government has, therefore, been recently directed more to preserving the public vessels already built, and providing materials to be placed in depot for future use, than to increasing their number. With the aid of Congress, in a few years, the Government will be prepared, in case of emergency, to put afloat a powerful navy of new ships almost as soon as old ones could be repaired.

The modifications in this part of the service suggested in my last annual Message, which are noticed more in detail in the report of the Secretary of the Navy, are again recommended to your serious attention.

The report of the Postmaster General, in like manner, exhibits a satisfactory view of the important branch of the Government under his charge. In addition to the benefits already secured by the operations of the Post Office Department, considerable improvements, within the present year, have been made, by an increase in the accommodation afforded by stage coaches, and in the frequency and celerity of the mail between some of the most important points of the Union.

Under the late contracts, improvements have been provided for the southern section of the country, and, at the same time, an annual saving made of upwards of seventy-two thousand dollars. Notwithstanding the excess of expenditure beyond the current receipts for a few years past, necessarily incurred in the fulfilment of existing contracts, and in the additional expenses, between the periods of contracting, to meet the demands created by the rapid growth and extension of our flourishing country, yet the satisfactory assurance is given, that the future revenue of the department will be sufficient to meet its extensive engagements. The system recently introduced, that subjects its receipts and disbursements to strict regulation, has entirely fulfilled its design. It gives full assurance of the punctual transmission, as well as the security, of the funds of the department. The efficiency and industry of its officers, and the ability and energy of contractors, justify an increased confidence in its continued prosperity.

The attention of Congress was called, on a former occasion, to the necessity of such a modification of the office of Attorney-General of the United States as would render it more adequate to the wants of the public service. This resulted in the establishment of the office of Solicitor of the Treasury; and the earliest measures were taken to give effect to the provisions of the law which authorized the appointment of that officer, and defined his duties. But it is not believed that this provision, however useful in itself, is calculated to supersede the necessity of extending the duties and powers of the Attorney-General's office. On the contrary, I am convinced that the public interest would be greatly promoted by giving to that officer the general superintendence of the various law agents of the Government, and of all law proceedings, whether civil or criminal, in which the United States may be interested; allowing to him, at the

same time, such a compensation as would enable him to devote his undivided attention to the public business. I think such a provision is alike due to the public and to the officer.

Occasions of reference from the different Executive Departments to the Attorney-General are of frequent occurrence; and the prompt decision of the questions so referred, tends much to facilitate the despatch of business in those departments. The report of the Secretary of the Treasury, hereto appended, shows also a branch of the public service not specifically intrusted to any officer, which might be advantageously committed to the Attorney-General.

But, independently of those considerations, this office is now one of daily duty. It was originally organized, and its compensation fixed, with a view to occasional service, leaving to the incumbent time for the exercise of his profession in private practice. The state of things which warranted such an organization no longer exists. The frequent claims upon the services of this officer would render his absence from the seat of Government, in professional attendance upon the courts, injurious to the public service; and the interests of the Government could not fail to be promoted by charging him with the general superintendence of all its legal concerns.

Under a strong conviction of the justness of these suggestions, I recommend it to Congress to make the necessary provisions for giving effect to them, and to place the Attorney-General, in regard to compensation, on the same footing with the heads of the several Executive Departments. To this officer might also be intrusted a cognizance of the cases of insolvency in public debtors, especially if the views which I submitted on this subject last year should meet the approbation of Congress—to which I again solicit your attention.

Your attention is respectfully invited to the situation of the District of Columbia. Placed, by the constitution, under the exclusive jurisdiction and control of Congress, this District is certainly entitled to a much greater share of its consideration than it has yet received. There is a want of uniformity in its laws, particularly in those of a penal character, which increases the expense of their administration, and subjects the people to all the inconveniences which result from the operation of different codes in so small a territory. On different sides of the Potomac, the same offence is punishable in unequal degrees; and the peculiarities of many of the early laws of Maryland and Virginia remain in force, notwithstanding their repugnance, in some cases, to the improvements which have superseded them in those States.

Besides a remedy for these evils, which is loudly called for, it is respectfully submitted whether a provision, authorizing the election of a delegate to represent the wants of the citizens of this district on the floor of Congress, is not due to them, and to the character of our Government. No portion of our citizens should be without a practical enjoyment of the principles of freedom; and there is none more important than that which cultivates a proper relation between the governors and the governed. Imperfect as this must be in this case, yet it is believed that it would be greatly improved by a representation in Congress, with the same privileges that are allowed to that of the other Territories of the United States.

The penitentiary is ready for the reception of convicts, and only awaits the necessary legislation to put it into operation; as one object of which I beg leave to recall to your attention the propriety of providing suitable compensation for the officers charged with its inspection.

The importance of the principles involved in the inquiry, whether it will be proper to recharter the Bank of the United States, requires that I should again call the attention of Congress to the subject. Nothing has occurred to lessen, in any degree, the dangers which many of our citizens apprehend from that institution, as at present organized. In the spirit of improvement and compromise which distinguishes our country and its institutions, it becomes us to inquire whether it be not possible to secure the advantages afforded by the present Bank through the agency of a Bank of the United States so modified in its principles and structure as to obviate constitutional and other objections.

It is thought practicable to organize such a bank, with the necessary officers, as a branch of the Treasury Department, based on the public and individual deposits, without power to make loans or purchase property, which shall remit the funds of the Government, and the expenses of which may be paid, if thought advisable, by allowing its officers to sell bills of exchange to private individuals at a moderate premium. Not being a corporate body, having no stockholders, debtors, or property, and but few officers, it would not be obnoxious to the constitutional objections which are urged against the present bank; and having no means to operate on the hopes, fears, or interests of large masses of the community, it would be shorn of the influence which makes that bank formidable. The States would be strengthened by having in their hands the means of furnishing the local paper currency through their own banks; while the Bank of the United States, though issuing no paper, would check the issues of the State banks, by taking their notes in deposit, and for exchange, only so long as they continue to be redeemed with specie. In times of public emergency, the capacities of such an institution might be enlarged by legislative provisions.

These suggestions are made, not so much as a recommendation, as with a view of calling the attention of Congress to the possible modifications of a system which cannot continue to exist in its present form without occasional collisions with the local authorities, and perpetual apprehensions and discontent on the part of the States and the people.

In conclusion, fellow-citizens, allow me to invoke, in behalf of your deliberations, that spirit of conciliation and disinterestedness which is the gift of patriotism. Under an overruling and merciful Providence, the agency of this spirit has thus far been signalized in the prosperity and glory of our beloved country. May its influence be eternal.

ANDREW JACKSON.

Five thousand copies of the Message, and fifteen hundred copies of the accompanying documents, were ordered to be printed for the use of the Senate.

The bill authorizing a subscription to the Louisville and Portland Canal, returned by the President with objections to it, was laid on the table.

WEDNESDAY, December 8.

The several subjects comprised in the Message of the President of the United States were this day referred to the appropriate committees. No other business was transacted.

THURSDAY, December 9.

The Currency.

On motion of Mr. SANFORD, of New York, it was

Resolved, That a Select Committee be appointed to consider the state of the current coins, and to report such amendments of the existing laws concerning coins as may be deemed expedient.

Honors to the Dead.

Mr. ELLIS said, that, in consequence of the lamented death of his late colleague, the honorable ROBERT H. ADAMS, he rose to present a resolution to the consideration of the Senate. The deceased was a native of Rockbridge county, Virginia. After completing the course of his education in Washington college, he studied law, and at an early period emigrated to Knoxville, in Tennessee, where he pursued his profession with unremitting zeal and great success. To a mind at once clear and comprehensive, it appeared perceptible that his prospects would be more flattering in the lower country, and he removed to Natchez, Mississippi, in 1819. There, in the midst of a numerous and talented bar, without fortune or family influence, by the force of high intellectual endowments and pleasing manners, he rapidly rose to the highest honors of his profession. Surrounded, as he was, by an intelligent and extensive acquaintance, he was not long permitted to enjoy the enviable distinction arising from professional merit alone. In January last, he was called by the legislature of his adopted State to a seat in the councils of the nation. Here he was too well known to require eulogy. Mr. E. would only say, that the death of so young a man, distinguished as he was, must be a loss to the nation. It was publicly, deeply, and universally deplored in the State which he had the honor in part to represent. He, therefore, moved the following resolution; which was unanimously adopted:

Resolved, unanimously, That the members of the Senate, from a desire of showing every mark of respect to the memory of the Honorable ROBERT H. ADAMS, deceased, late a Senator of this body from the State of Mississippi, will go into mourning for one month, by wearing crape on the left arm.

Mr. KANE, of Illinois, said, that a paper which he had presented on the first day of the session, announced to the Senate the decease of his late colleague, JOHN MCLEAN, of Illinois. He died, after a short illness, at his residence, on the 14th day of October last. Though not a native of the State which he represented, he might well be claimed as one of the favorite sons of Illinois. He had removed there at an early age. There he commenced his career in life; a career of usefulness and distinction, which had fallen to the lot of few in that region of country. In private life, he was remarkable for his benevolence, frankness, and independence of character. No one in the circle in which he moved had a larger share of the confidence and affections of his fellow men. He was by profession a lawyer, possessed of a vigorous mind, a rapid but easy elocution. These qualifications, added to an honesty of purpose, universally accorded to him, raised him to the front rank of his profession; and there sustained him. As a statesman, the people of Illinois would long remember him as the author of many of the most valued portions of their statute books, and as the acute and able presiding officer over the deliberations of the most numerous branch of their legislature. Mr. MCLEAN had been twice elected to a seat in the Senate of the United States, and his last election was the result of the unanimous vote of the members of both branches of the General Assembly. In the state of things which then existed, no stronger evidence of the general esteem in which he was held by those who knew him best could well be given. In order to pay a proper respect to the memory of such a man, Mr. KANE moved the adoption of the following resolution; which was unanimously agreed to:

Resolved, unanimously, That the members of the Senate, for the purpose of showing a proper respect to the memory of the Honorable JOHN MCLEAN, deceased, late a Senator from the State of Illinois, will go into mourning for one month, by wearing crape on the left arm.

On motion of Mr. ELLIS, of Mississippi, it was also

Resolved, unanimously, That, as an additional evidence of respect to the memory of the deceased Senators from Mississippi and Illinois, the Senate do now adjourn, to meet on Monday next, at eleven o'clock.

MONDAY, December 13.

Impeachment of Judge Peck.

A message was received from the House of Representatives, announcing the adoption by that House of a replication to the answer and plea of Judge Peck to the article of impeachment exhibited against him by them.

At twelve o'clock, the Court of Impeachment for the trial of Judge Peck, of Missouri, was opened in due form by proclamation from the Marshal of the District of Columbia. The Senators were ranged on two sets of benches, covered with green cloth, to the right and left of the Chair occupied by the President of the Senate.

On motion of Mr. WOODBURY, the Secretary was ordered to inform the House of Represent-

court, whether there was any unmeasured language of reprobation, in which a citizen might not indulge towards a court for pronouncing an opinion, and proclaiming principles dangerous to liberty, and to the free institutions of his country? Would the Supreme Court send the Marshal to South Carolina or Louisiana to bring such an editor before them for contempt, and to punish him by the summary process of attachment? From his knowledge of that court, and of the Chief Justice, he had no hesitation in saying that they would unanimously, and with one accord, decide that they were a court of limited powers; that they did not possess any authority on the subject of contempts, except the inherent power to protect themselves in the administration of justice, and to prevent its obstruction. To support his argument, Mr. MoD. adverted to the sedition law, not for the purpose of exciting any prejudice, or reviving any party feeling, in this honorable court, but as furnishing some analogy for the illustration of the present case. That law was thoroughly understood by every public man in the country. It was settled in the public mind to be an usurpation. Every man of understanding considered it to have been unconstitutional. And yet it was a mitigation of the common law of England. It exploded the monstrous heresy, that the greater the truth the greater would be the libel. But it was deemed unconstitutional. Congress were condemned not for having passed an act which mitigated the principles of the common law of England, but because they had no authority to pass any law restricting the liberty of speech or of the press; because they had conferred on the federal courts a power to punish for contempt any man who might utter or publish what they might deem a libel. Was not this a grievance? The law had been repealed: it had become universally odious. And now, the President, the Senate, and the House of Representatives, together, did not possess the power which Judge Peck, representing the King of England, and administering his justice, claimed, of punishing a citizen for contempt, in daring to question the infallibility of his opinion. Whence did he derive a power which did not belong to the united functionaries of this Government? Under the sedition law, the citizen accused of a libel was entitled to a trial by jury, and to give the truth in evidence.

By its repeal, the people of the United States had decided that the President, Senate, and House of Representatives could not subject a citizen even to trial by a jury for the most defamatory libel. But here, in this case, the Judge undertakes, not by the interposition of a jury, but of his own will, to punish for contempt imagined by himself, which nobody else would have noticed or viewed as a contempt. Without law, this honorable judge claimed a power to punish, much greater than that which was possessed by every other branch of the Government united. He claimed a power to make the law, and punish under it, at the same moment. This was the most infamous and tyrannical of the whole tissue of usurpations. We had analogies in the acts of Congress bearing on this case. By the judicial act of 1789, the federal courts have the power to punish for contempts committed during the progress of a trial of any cause depending in court. In carrying this law into effect, they might punish any act tending to impede the course of justice, any insult to the court or jury, any contempt perpetrated in the face of the court, by fine and imprisonment. The express grant of one power was the negation of another. The power conferred by this act raised a presumption that Congress had not intended to go further; that the federal courts possessed no other or greater authority in relation to contempts. He humbly conceived that the kind of punishment indicated by that act, was that by fine and imprisonment alone. If it were, it would be most extraordinary that the courts should claim the power to punish in any other way than by fine and imprisonment. Unquestionably, they did not possess any such authority. What argument, then, could justify the respondent? Although Congress had authorized only fine and imprisonment for the higher grades of contempt, the respondent claimed the power to inflict a greater punishment for the milder grades. In any view, whether we regarded the common law, the laws or usages of our own country, or of England, or the principles of the constitution, our courts and judges could not inflict a greater punishment for contempt than fine and imprisonment: they could not inflict disfranchisement: they could not deprive a man of his occupation, his inheritance, or the means of subsisting his family. Such a power was never claimed before by any tribunal in the civilized world.

It must be apparent, by this time, that the district court of Missouri had no power to punish a citizen of the United States for contempt, further than to protect the court in the actual administration of justice. Even the principles of the common law conferred no semblance of authority to punish a contempt against the majesty of a court. What was the principle assumed in regard to contempts by the courts of England? In the case of the King *versus* Almon, which was no case at all, a mere extra-judicial opinion of Chief Justice Wilmot, found among his papers after his death, all the principles laid down in it were the principles of unmitigated judicial despotism. This ingenious and artful tissue assumed, that the judges of England deriving their authority from the King of England, and administering the King's justice, were an emanation of his power, and that the same principle which protected the character and person of the King, as sacred, protected those of his judges in like manner. This opinion was going the whole. The judges, sitting in the seat of the King, could not be called to account for denying the writ of habeas corpus, or refusing to grant it, without making the King violate his coronation oath! This miser-

able tissue of sophistry and falsehood was used to justify the punishment of a fair and manly publication on the law of habeas corpus as a contempt! God forbid that any man in this country should say that the opinions of judges were not a fair subject of animadversion, or that the proceedings of this honorable body were not also open for discussion. No man, according to this doctrine, had a right to publish any thing, true or false, concerning any public functionary, disparaging him, his character, or opinions. This principle of the English courts, a district judge of the United States has had the boldness to advance to justify his judicial tyranny. Could this be law? Any publication against a private citizen was *prima facie* a libel: it was the private individual that ought to be protected from calumny. The same immunity did not belong to the public functionary. What might properly be punished for being said against a private citizen, it would be justifiable to say against a public functionary. There was hardly any thing, true or false, that ought not, with impunity, to be allowed to be published against a public man, rather than run the hazard of restricting the liberty of discussion. By the irreversible decision of the people of the United States upon the sedition law, it had been decided that you cannot punish any thing said against a public officer. A decision so unanimous as that was did not exist on record. He would now barely call the attention of this honorable court to one or two British authorities to satisfy them that Judge Peck had been guilty of a high misdemeanor, even if we admitted the force of the common law in this country. Some of the elementary English authors carried the doctine of contempt further than others.

Blackstone, in whose work, unfortunately for many of us, we were educated as a text book, supported the authority of the King on all occasions, and spoke of the right of the court to punish for consequential contempts. But even he did not push the doctrine as far as this tyrannical Judge had done. Hawkins broadly laid down the principle, that any words, however true or false, which might be uttered, reproachful of the judge, were immediately finable by the court; but that the better opinion was, that a man could not be punished for words said against a judge not in the actual execution of his official duties. If a man said that a judge was a numskull, and deserved to be hanged for giving such an opinion, here was contemptuous as well as reproachful language; but the man could not be punished for it. This had been laid down by a writer who pushed the King's prerogative to its utmost limits. Such a man might say to a judge out of court, "your opinion is a fair subject of investigation: I have a right to pronounce you a fool or a scoundrel." This language would not be a proper subject of indictment. He would not pretend to compare language so contemptuous and disrespectful as this to the publication, by Mr. Lawless, of "A Citizen," for which his majesty, Judge Peck, had imprisoned, suspended, and disfranchised the author. His was a respectful and harmless publication. He would produce another English elementary writer. According to Holt, it is held in England that a judicial opinion is a fair subject of discussion, provided no bad or corrupt motive be ascribed to the judge. Although he would not admit that it was punishable to say to a tyrannical judge, "you are a judicial tyrant," yet, even according to the English law, as expounded by the writers to whom he had referred, Judge Peck had no right to punish Mr. Lawless, who had ascribed no wrong or corrupt motive to his opinion in the case of Soulard. The power exercised by that Judge was the most arbitrary and dangerous ever exercised by any court or judge in this country. It was a pregnant proof of the danger of such an exercise of judicial power, to say, as he would declare, that the power to punish for contempt, even in cases of necessity, was a dangerous power, a despotic power, an anomaly, utterly incompatible with liberty, the essence of tyranny and despotism. It was the very illustration of tyranny, that a judge might make the law, fix the punishment, and punish, at the same time. Could any man doubt that Judge Peck had assumed the right to punish a contempt against his sacred person; that he had fixed the punishment, and enforced it too; that he had performed the functions of legislator and judge in his own case? Could any man doubt that this Judge, to gratify his vindictive passions, had, by an arbitrary and summary process, deprived an American citizen of his rights, subjected him to an ignominious confinement in prison, and deprived him of the means of supporting his family? Was not such a man a judicial tyrant, whose crimes called aloud for exemplary punishment?

Mr. MCDUFFIE then proceeded to call the attention of the court to the publication of "A Citizen," which Judge Peck alleged to be a libel, punishable as a contempt; and he analyzed it paragraph by paragraph, comparing it as he went along with the opinion of the Judge, on which it was a commentary, and with the answer to the article of impeachment, in order to show that it was not even a misrepresentation, much less a disrespectful contempt, of the opinion of Judge Peck. By this analytical process also, he would demonstrate that the conduct of that Judge to Mr. Lawless presented the strongest illustration of judicial despotism that had ever been exercised, from the first dawn of civil liberty to the present day. It must have required all the disordered imagination and furious passion of this Judge to distort into a contemptuous libel one of the most innocent publications ever issued from the press. As God was his judge, if he did not know the respectable counsel of the respondent, he should say, from the defence of the Judge, that he must have been deranged. No man in his senses could have tortured the publication of

court, whether there was any unmeasured language of reprobation, in which a citizen might not indulge towards a court for pronouncing an opinion, and proclaiming principles dangerous to liberty, and to the free institutions of his country? Would the Supreme Court send the Marshal to South Carolina or Louisiana to bring such an editor before them for contempt, and to punish him by the summary process of attachment? From his knowledge of that court, and of the Chief Justice, he had no hesitation in saying that they would unanimously, and with one accord, decide that they were a court of limited powers; that they did not possess any authority on the subject of contempts, except the inherent power to protect themselves in the administration of justice, and to prevent its obstruction. To support his argument, Mr. McD. adverted to the sedition law, not for the purpose of exciting any prejudice, or reviving any party feeling, in this honorable court, but as furnishing some analogy for the illustration of the present case. That law was thoroughly understood by every public man in the country. It was settled in the public mind to be an usurpation. Every man of understanding considered it to have been unconstitutional. And yet it was a mitigation of the common law of England. It exploded the monstrous heresy, that the greater the truth the greater would be the libel. But it was deemed unconstitutional. Congress were condemned not for having passed an act which mitigated the principles of the common law of England, but because they had no authority to pass any law restricting the liberty of speech or of the press; because they had conferred on the federal courts a power to punish for contempt any man who might utter or publish what they might deem a libel. Was not this a grievance? The law had been repealed: it had become universally odious. And now, the President, the Senate, and the House of Representatives, together, did not possess the power which Judge Peck, representing the King of England, and administering his justice, claimed, of punishing a citizen for contempt, in daring to question the infallibility of his opinion. Whence did he derive a power which did not belong to the united functionaries of this Government? Under the sedition law, the citizen accused of a libel was entitled to a trial by jury, and to give the truth in evidence.

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Mr. Lawless as he had done. In the case of Soulard's heirs, although the Judge had decided against the claimants, he said, in his published opinion, that it was still open for the discussion of counsel. Mr. Lawless, therefore, commenced his publication, with an unbecoming humility to the court, such as no citizen ought to have manifested, by saying that he would avail himself of the permission granted by the Judge, to point the public attention to some of the principal errors which he thought he had discovered in his opinion. This very apology had been seized on by this jealous tyrant, and tortured into an insult upon the court. The Judge alleged that he had not said the case was open for newspaper discussion; nor had Mr. Lawless said so. But the Judge seemed to suppose that Mr. Lawless had discovered a secret; that by the publication of his opinion, Judge Peck had shown so little sense of judicial decency and decorum as to invite a newspaper discussion of a case which had been decided in his court. And this was the insult which Mr. Lawless had committed! This was the congeries of ridiculous absurdities uttered by the Judge; this was the defence which he had dared to make before the highest tribunal in the United States! Such an idea never could have been conceived by any man of understanding. Humbly as the Judge might estimate the land claimants in Missouri, no one of them would have been so deficient in common sense as to have put the construction which he had put on the apology of Mr. Lawless. Mr. McD. then consecutively and critically examined every specification in the publication of "A Citizen," with the commentary of the Judge upon it; and, in relation to the first, he remarked, among other things, that, with due deference to Mr. Lawless, he thought the only crime he had committed was a violation of grammatical accuracy; a blunder which, he believed, was common to the Irish, and Scotch Irish; he had construed a want of power in a sub-delegate of Louisiana to grant land for services rendered, or to be rendered, into a prohibition from making such grants. And for this monstrous and flagitious blunder in the King's English, committed by Mr. Lawless in the presence of his honor Judge Peck; for thus wounding the vanity of the Judge, clothed in a little brief authority, Mr. Lawless was charged with the suggestion of a falsehood, and sent to prison for a contempt! In the progress of his analysis, Mr. McD. endeavored to demonstrate, that many of the interpretations put by Judge Peck upon the publication of Mr. Lawless could have been conceived only by the very spirit of judicial cavilling; by none but a tyrant in the meridian of his tyranny; by nothing but the very genius of despotism in its maddest freaks. He pronounced Judge Peck himself to be the most accomplished libeller that had ever appeared in a court of justice, and declared that his whole commentary upon the publication of "A Citizen," was a tissue of libels offensive to decency. The charge of falsehood, absurdity, libel, ran through it; it was the phantom which haunted his imagination when he sent this man to prison. Frail would be the tenure by which the people would hold their liberties, if an American citizen could be punished by a judge for the coinage of his own brain; if, frantic with rage, by a species of school-boy cavilling, he might perpetrate this indignity upon an American citizen!

Mr. Lawless had a full knowledge of the facts and the laws in relation to land claims in Missouri at the time of writing and publishing the article for which he was punished. He had approached much nearer to grammatical and substantial accuracy than had been supposed by Mr. McD. yesterday. He had correctly represented the opinions of Judge Peck. The Judge had, nevertheless, declared in his answer, in relation to almost every specification in the publication of Mr. Lawless, that it was untrue. Were Mr. Lawless the Judge, Judge Peck himself would be liable to be attached and punished for contempt; but God forbid, that Mr. Lawless should, in that event, have the power to decide upon his own case. That gentleman had, in his publication, imputed to the Judge the doctrine that the regulations of the Governor General of Louisiana had the effect of annulling the grants of lands for services. It was fortunate for Mr. Lawless that this case had occurred in 1826, before the great national question of nullification had been raised: if it had not, Mr. Lawless might have been attached and punished for charging Judge Peck with nullifying the regulations of the Governor General. The vanity of the Judge had been cut, by giving his opinions without his remarks. Mr. Lawless had given the substance, stripped of the feathers. He had dared, with sacrilegious hands, to tear the opinion of the Judge from his sacred context, and to give it to the public without his arguments; and for this he was to be sent to jail, disfranchised, and deprived of his rights.

Having completed his analysis of the publication of Mr. Lawless, of which no sufficient idea can be formed from this imperfect report, Mr. McD. appealed to the candor of the honorable court, to say whether that publication contained a solitary word or syllable disrespectful or contemptuous to the court or the Judge. It would be difficult for them to lay their finger upon any political or other publication so perfectly respectful as that was. Was there in it a word of censure or of reproach? It was the practice in South Carolina for every lawyer to make his own statement of any exceptions which he may take to an opinion of the judges in the courts below, and to lay it before the same judges, who constituted the Court of Appeals in that State. There was not one case in one hundred of that description in which the lawyers were as correct in giving the opinion of the judges as Mr. Lawless had been in representing the opinion of Judge Peck. They were not expected to give the dress and the feathers of the judge. They were expected to give the opinion

as they understood it. Mr. McD. said he had never made a statement in a bill of exceptions as correctly as that which had been made by Mr. Lawless, in his publication of the opinion of Judge Peck. Differing, as he did, from the Judge, it was natural that he should put a different construction upon his opinions; but for this no lawyer in that State had ever been sent to jail. Every man, whether in our courts or in the gladiatorial halls of legislation, was liable to have his argument misunderstood and misrepresented: but he did not wince at this, or rise up on every occasion, and say, I did not make that remark or that argument. Was every man to be punished for misconceiving an argument or an opinion?

The Secretary having, at the request of Mr. McD., read to the court the publication of Mr. Lawless, that honorable manager appealed, with perfect confidence, to the court, to say whether a more harmless or respectful publication could have been made; whether a man, who could regard that publication as a contempt, and punish it by sending its author to jail, and depriving him of his right to follow his professional occupation, and of the means of subsisting his family, was not a judicial tyrant, calling for exemplary punishment at the hands of this august tribunal? According to the principles which he had cited from the English books, any subject of England might publish a commentary or an opinion of a judge, if he did not ascribe corrupt motives to it. It was public property, and liable to animadversion, provided that the fair limits of criticism were not transcended. This was the English law. The Constitution of the United States was more free, and allowed a greater latitude. What was the criticism of Mr. Lawless? Was it upon the opinion of the court? No, sir: that judgment had been pronounced six months before. The decree had been entered. Mr. Lawless had not taken exception to it after the case had been taken out of that court. The criticism was upon the long argument of Judge Peck, published in a newspaper, after the judgment had been rendered. The case was pending before the Supreme Court of the United States; and Judge Peck might have been attached for a contempt of that court, in publishing his argument in the newspapers, upon much better grounds than those upon which he attached and punished Mr. Lawless. The opinion of Judge Peck as published, had not been delivered in term time; it was published in vacation. Mr. Lawless had just as much right to criticize it as the Judge had to publish it; and it was entitled to no more respect than if it had been delivered on the hustings. We had heard much about judicial decency and decorum. Judge Peck had misconceived both by going into the newspapers; and his published opinion was not entitled to the decent and respectful notice which it had received from Mr. Lawless. Any citizen possessed a full, free, and clear right to investigate that opinion. He considered the Judge to have been extremely censurable, in publishing his opinion while the case was pending before the Supreme Court of the United States. Whatever might be the character of the contempt imputed to Mr. Lawless, whatever might be thought of it, the Judge had transcended the limits of all authority in inflicting upon him the particular punishment which he had visited upon him for the offence. Fine and imprisonment were the only punishment of a citizen authorized by the law of England or of the United States in cases of contempt. Certainly, Congress had never delegated any power to inflict a greater punishment for the highest grades of contempt. Any officer of a court, any attorney practising in a court, for malversation, fraud, peculation, unfair dealing with his clients, for any base or disgraceful act, where convicted of fraud or perjury, might be stricken from the rolls of the court, as unworthy of confidence. For these causes, in England and the United States, the courts had assumed the power of striking from their lists of practising attorneys. But Judge Peck had not pretended that Mr. Lawless had been guilty of any of these. Did not this honorable court perceive that there was no relation between the offence and the punishment of that gentleman? Because Judge Peck's dignity had been offended, because he chose to think the publication of Mr. Lawless calculated to bring ridicule and contempt upon his court, had he a right to strike him from the list of attorneys practising in his court, and to deprive him and his family of the means of subsistence? Mr. Lawless was a lawyer, a public man, in relation to the pecuniary interest of hundreds and thousands of the citizens of Missouri; they had a right to his professional services, and this tyrannical Judge had said that he would deprive him of his and their rights. He had exercised a tremendous power, not called for by any public consideration, nor justified by any law, but originating in the malevolent passions of the petty judge by whom the sentence had been pronounced. Having presented to the court the facts and the grounds upon which the managers, on the part of the House of Representatives, prayed its judgment in this case, Mr. McD. would offer a few general remarks on the danger, the real, great, and alarming danger of the precedent which would be established by this honorable court if Judge Peck should be suffered to go unpunished for this high misdemeanor.

He had violated the liberty of the press in the most dangerous form. He had violated the right of trial by jury by drawing to himself the power to try and punish in a summary manner an offence which, if it were one, was a proper subject of ordinary indictment and trial. And he had defended his tyrannical conduct by the allegation, that the charge of violating the liberty of the press was the stale declamation by which demagogues, slanderers, and libellers, attempted to justify themselves, and to bring the Government into contempt. He trusted

that liberty, the liberty of the press, was not thus to be laughed and sneered out of the capital of the United States by a petty provincial judge. When a European monarch had been hurled from his throne for daring to violate the liberty of the press, were we to be told that the liberty of the press was only the theme of demagogues? Tyrants, alone, would so designate it. It had been justly said, that the liberties of mankind could not survive the destruction of the liberty of the press. Even Hume, the English historian, the apologist of tyrants, had declared, that no people having the liberty of the press could be enslaved. He had said, that the only difference in Government, between his time and the reign of Elizabeth, was, that, when he wrote, England enjoyed the liberty of the press; that, with this privilege, Turkey herself would be comparatively free. And yet we are told by this Judge, that this was the theme of demagogues. He called upon this honorable court to look at the danger of the precipice on which they stood, if they set the precedent of acquitting this Judge. Suppose he should be condemned by this tribunal; suppose he should go back to Missouri, and proclaim that he had been made the victim of party feeling, as he had said in defence before the other House, where he had grossly reflected upon that House; suppose, that when he arrived in Missouri, he should make the welkin ring with his charges against this court; would they, after the sedition law had been driven from the statute book, make themselves the legislators, and judges, and executioners, of the law, by punishing Judge Peck for his calumnies against them? Would any man think of sending for him to answer for the free investigation which he might think proper to indulge in? Would this honorable court act upon the principle which they would consecrate by the acquittal of Judge Peck? And yet such would be the tendency of his acquittal. Every editor in the United States was liable to be immured within the walls of a prison, upon the principles asserted by Judge Peck, unless this honorable court would say that it would be extremely dangerous for the President, Senate, and House of Representatives, to punish editors for the daily calumnies published upon them, as Judge Peck had punished Mr. Lawless. Should the Senate of Rome not punish a libel, and yet delegate the power to punish to its provincial proconsuls? Should it be said that a pro-consul, reeking with the blood of his fellow-citizens, may exercise a power, may be trusted with this power, rather than the Senate of Rome? It was said that the King of England could do no wrong, and that the judges, deriving their authority from him, and administering his justice, were entitled to an equal protection. Judge Peck derived his power from the President and Senate. You may slander them as much as you choose; and yet you may not slander this pitiful emanation of their authority.

Mr. McD. contended that, if any public functionary ought to be held responsible to the press, which was the organ, the only true organ, of the people, it was the judges, who alone held their offices during good behavior. If you would preserve the independence of the judiciary, make them do their duty, and punish them for transgressing it. In this age, when tyrants were overwhelmed, and thrones overturned, for violating the liberty of the press, would you suffer your judges to trample upon it with impunity? He had always been in favor of the independence of the judiciary, and against the rotatory principle; but if the doctrine, that the judges were not liable to the animadversion of the public press, be established, God forbid that he should permit the independence of the judiciary to continue for a moment longer than he could help. A judge was as impalpable as air, if you could not reach him through the public press. You must permit him to go on with his outrages, without complaint, until you could bring him before this august tribunal. You might bring him to account here, but nowhere else. Had we come to this, that we may not call a judicial tyrant by his right name; that we may not call him to account for his crimes and misdemeanors? In the worst days of Paris the cry of tyranny was allowed. "Down with the tyrant" was echoed and re-echoed from one end of Paris to the other. But when a judge committed an outrage, we may not characterize it in the appropriate language.

It was in vain to attempt to disguise it. If this Judge should be held guiltless, there could be no judicial outrage which would not be clearly justified by the precedent. It had never occurred to a majority, in the most inflammable times, to punish so harmless an article as that for which Mr. Lawless had been punished. The precedent of an acquittal in this case would justify any judge in laying down any principle to justify such an outrage. The most insidious encroachment of power would be sanctioned by precedents of this kind. It was no extravagant supposition to imagine that this Government might, at some period hereafter, be administered under the influence of party passions; that a party might get into power by intrigue and management, and that it might occur to that party, consisting of a minority, to attempt to maintain their power by muzzling or suppressing the freedom of the press. They might not pass a sedition law, but they might appoint ten thousand district and territorial judges; they might send justices of the peace into every town and parish in the Union; and each of these, upon the doctrine of Judge Peck, might drag an editor before him, punish him for contempt, and thus destroy the liberty of the press. It was impossible to tell the extent to which this principle might be carried by party judges, in party times. It must appear much better, in the view of every statesman, to suffer the most unjust libels to be published in the newspapers, and to let their poisoned

arrows recoil upon themselves, than to suppress the liberty of the press. But what was the liberty of Mr. Lawless, according to the practical doctrine of Judge Peck? It was the liberty of being sent to prison, incarcerated with common felons, and deprived of the means of his subsistence, for respectfully differing in opinion with the Judge.

A wise man of antiquity, upon being asked what was the best form of Government, justified the character which he had received by the answer, that that was the best in which an injury done to a single citizen was felt as an injury done to the whole community. There was not a man in the country that ought not to make the injury done to Luke E. Lawless his own. We were told that he was an Irishman. He deserved infinite credit, when ordered to prison, for the moderation which he exhibited, for not dragging the tyrant, as Virginius had dragged the tyrant Appius, from the throne. As God was his judge, he believed, that if the case of Mr. Lawless had been his; if he had been ordered to prison, and his family deprived of the means of subsistence, he should have dragged him from his seat on the bench. He had his whole life lived in abhorrence of despotism, in every shape, whether in a judge, or an overseer of slaves; and he considered that this petty Judge had been guilty of tyrannical conduct which would have disgraced a slave-driver.

TUESDAY, December 21.

Trial of Judge Peck.

The Senate again resolved itself into a Court of Impeachment.

The House of Representatives came into the Senate Chamber and took their seats.

Mr. MCDUFFIE resumed the floor, and concluded his opening speech, commenced yesterday, against the respondent. [The remarks made on both days are embodied above, instead of dividing them, as delivered.]

Mr. BUCHANAN then offered the documentary evidence in behalf of the prosecution.

The court then adjourned.

WEDNESDAY, December 22.

Trial of Judge Peck.

The Senate again resolved itself into a Court of Impeachment.

The day was occupied in receiving the testimony of LUKE E. LAWLESS, and in examining him. Before the cross-examination was finished, the Court adjourned.

THURSDAY, December 23.

Trial of Judge Peck.

At twelve o'clock the Senate again resolved itself into a High Court of Impeachment.

The cross-examination of Mr. LAWLESS was resumed, and continued during the whole of the sitting of this day. In the course of that examination, both yesterday and to-day, a variety of points were raised, and argued with great ability by the managers and the counsel for the respondent, on the admissibility of certain questions propounded to the witness. The most important of these, and that the decision of which will probably protract the cross-examination at least a day or two, was the point, whether Mr. Lawless should be required to say, whether certain designated passages in the opinion of Judge Peck, in the case of Soulard's heirs, were the parts of that opinion upon which he based the assertion, made in the publication of "A Citizen," that Judge Peck had assumed the position, "that, by the Ordinance of 1754, a sub-delegate under the Spanish Government of Louisiana was prohibited from making a grant of lands in consideration of services rendered, or to be rendered?" The Senate, after ingenious and able arguments by Mr. BUCHANAN and Mr. STORRS, in behalf of the managers, and by Mr. WIRT, in behalf of the respondent, decided, by a vote of thirty-two to ten, that the question might be put, and must be answered. This will, it is supposed, lead to a similar examination of the witness in relation to the grounds upon which he advanced all the propositions contained in his publication on the opinion of Judge Peck, for which he was committed and suspended from practice by the Judge.

The narrative part of the testimony of Mr. Lawless will afford the means of information to the general reader as to the circumstances which have led to this impeachment. It is therefore subjoined. Let it be remembered, that the heirs of Soulard filed a petition in the District Court for Missouri, of which the respondent is and was the Judge, to try the validity of their claim to ten thousand arpents of land, under a concession alleged to have been issued by Trudeau, the Lieutenant Governor of Upper Louisiana, to Antoine Soulard, the ancestor of the petitioners. Mr. Lawless was the counsel in the case.

LUKE EDWARD LAWLESS, Esq., having been called and sworn, gave a historical narrative of the proceedings, so far as related to the case of Soulard, in the District Court of the United States, for the State of Missouri, under the act of Congress of 1824, enabling the claimants to lands in Missouri and Arkansas to institute proceedings to try the validity of their claims, and in relation to the circumstances which had led to his commitment and suspension by that court. He testified, in substance, that, in the case of Soulard's heirs against the United States, he had, as counsel for the plaintiffs, argued it on a general demurrer. It was thought by some of the profession whom he consulted, that it would be well to have his argument printed; and it was accordingly printed. Upon the exhibition to him by Mr. BUCHANAN, one of the

honorable managers, of one of the printed copies of the argument, he said that it was the same. The demurrer was subsequently withdrawn; and the District Attorney filed his answer to the petition of the claimants. While taking the deposition of one of the former Lieutenant Governors of Upper Louisiana, Judge Peck mentioned that he had read, or had caused to be read to him, the argument of Mr. Lawless, a copy of which that gentleman said he had sent to him before that time. When the court again sat, Judge Peck directed an issue to try the question, whether such a concession as that under which the plaintiffs claimed the lands in question had ever been made? It was found that it had been made; such as it was set forth to be in the petition of the claimants. The cause then came on upon its merits and the proofs. Mr. Lawless again argued it very much at length. This was in the spring of 1825. The court took the case under advisement, and reserved it for future decision. He was absent, and the Judge decided it in his absence. Mr. Lawless was not present when the decision was made; but Judge Peck postponed making up the record for taking an appeal until the counsel returned. When he returned, the record was made up, the appeal taken, and the appeal bond given. This was in December, 1825. In March following, about the 30th, he saw, in the Republican newspaper, published at St. Louis, an article headed, "Peck, Judge," and found it to purport to be an opinion or argument in justification of the decree of the District Court entered in the case of Soulard's heirs against the United States.

It appeared to him to contain a great many errors, in fact and in doctrine. It appeared to him to be calculated injuriously to affect the public opinion upon that and a variety of other similar claims, in which he was concerned as counsel. The article was anonymous, and he looked on it as an argument not presented by the Judge, when his opinion was delivered. It produced a great sensation, tended to depress the hopes of his clients, and to depreciate considerably the value of their property. It appeared to him rather to be an inquiry of what the law should be, than a peremptory decision of what it was. In the opening of that opinion, the Judge expressed doubts as to the law, and seemed to feel as if he were wandering through a wilderness to reach the desired object. Further discussion seemed to be invited of the points involved in that decision. Taking all these considerations into view, and believing that as a citizen, independently of his character as counsel, he had an undoubted right to point out the errors in the published opinion of the Judge, and to prevent, as far as he could, the injury they were likely to produce, Mr. Lawless took up his pen, and wrote the article signed "A Citizen," which was published in the Missouri Advocate and St. Louis Enquirer, of the 8th of April, in the same year. Shortly after that the District Court sat by special adjournment. He attended, and took his place in court. Upon taking his seat, and disposing of some business, the Judge pulled a newspaper out of his pocket, stated what paper it was, and asked, with apparent emotion, who was its editor, addressing himself, as Mr. Lawless thought, particularly to the District Attorney, or to the bar generally. Mr. Lawless replied, that he knew who was the editor of the paper, and that it was one Stephen W. Foreman. He believed, from his manner, that the Judge had in view the article which he had written; and he was perfectly willing that it should be brought up for discussion. The Judge asked Mr. Lawless if he would swear to the fact as to the editor. He said he would, and was accordingly sworn. Describing the article Judge Peck dictated a rule upon the editor, to show cause why he had published it. The rule was served upon the editor, and Mr. Lawless volunteered as counsel for him, he being the author of the article, and considering it his duty to defend the editor. He applied to no other person to appear for him. Mr. Lawless urged the editor by no means to give up the author, using every argument that he could to satisfy him that it was his duty not to yield on such an occasion. He appeared in court the day after the order was issued, and defended the editor on all the grounds which suggested themselves to his mind; on the ground of the perfect truth of the article, and of the absence on its face of all intention to commit a contempt.

In demonstrating the truth of the article, he recurred to the published opinion of the Judge, to all that the article contained, and pursued the same course of argument, with a few exceptions, as far as his humble abilities would permit, which had been taken by the honorable Manager who had opened this case. He produced all the authorities which he could rake up on the occasion, to show that the publication of "A Citizen" was not a contempt. Immediately after concluding his argument, which, he thought, had occupied more than one day, he left the court; and he understood that Mr. Geyer, a gentleman of the St. Louis bar, had also afterwards stepped forward in defence of the editor.

When Mr. Lawless returned into court, he found Judge Peck about to make the rule absolute for an attachment upon the editor. Considering that the Judge appeared to point at him as the author of the article, inasmuch as the rights of his clients were involved in the case, he changed his view of the course which the editor ought to pursue, and assented to the giving up of his own name as the author. Mr. Foreman was then discharged from the rule, and a rule was made on Mr. Lawless, to show cause why an attachment should not issue against him, and why he should not be suspended from practice in that court for having written the article as set forth in the attachment. Mr. Geyer, Mr. Magennis, and Mr. Strother, members of the bar, appeared before

Judge Peck, the next day, he believed, and argued the matter as his counsel. When they attempted to demonstrate the intrinsic truth of the article of "A Citizen," they were stopped by the Judge, told that he had decided and disposed of that question, and that it was not open for further argument. They then proceeded to discuss the questions of pure law on the merits of the case. Their authorities and arguments on that point were overruled by the Judge, who ordered the article to be read to him, paragraph by paragraph, by Mr. Bates, the District Attorney, and proceeded to examine and comment upon each paragraph as it was read. The manner of the Judge, in treating the subject, was exceedingly vehement; he was more impassioned than he had ever seen him. In his observations, he permitted himself to use expressions which Mr. Lawless considered offensive to him as a man and a gentleman. The witness felt himself irritated by them, and perhaps his countenance exhibited evidences of that irritation. He was apprehensive that he might betray his feelings by some expression or gesture, and he thought it best to leave the court. He, therefore, asked his friend, Mr. Geyer, if he thought it would be a contempt for him to leave the court while the Judge was speaking: Mr. Geyer thought no contempt could be inferred from his leaving the court. He rose up and left the court, and went to the Circuit Court for the county of St. Louis, then sitting, before which it so happened that a case, in which he was employed as leading counsel, was about to be tried. It was the case of some slaves, who had sued Peter Choteau for the recovery of their freedom. He was counsel for the defendant. While this trial was proceeding, he was informed by the deputy marshal the rule of an attachment against him had been made absolute by Judge Peck; and he was, therefore, obliged to leave the Circuit Court. When he appeared in the District Court, conducted by the deputy marshal, he was informed by Judge Peck, that he had a right to demand that interrogatories should be propounded to him, as he understood him, for the purpose of enabling him to purge himself of the alleged contempt.

To this the witness replied, that he did not require any interrogatories to be propounded to him; and, if propounded, he should not answer them. He did not recollect whether he then stated any reasons to the court for declining. He tendered exceptions to the decision of the Judge with his reasons, which the Judge refused to file. An order was then made out for his commitment to prison for twenty-four hours, and for his suspension from practice in that court for eighteen months. A copy of the order was put into the hands of the deputy marshal, and the witness was conducted to the jail of the county of St. Louis, locked up in a room where common felons had been imprisoned, as he was informed and believed. Mr. Soulard and Mr. Rector accompanied him, and were locked up in the room with him. After witness had been there some time, he called for the jailer, and requested him to show him the order of commitment, which he did. After he had examined it, he determined to petition the circuit court for a writ of *habeas corpus*, in order to apply for a release, on grounds which he thought he had discovered in the order itself. The judge of that court granted the writ, and decided to discharge him from prison, on the ground that there was no seal to the order or signature of the Judge. He was accordingly discharged, and heard no more on the subject from Judge Peck. An order was also made out to suspend him from practice for eighteen months, and he was not restored until his suspension had expired by limitation. It appeared further, from the testimony of the witness, that he was a native of Ireland; that he left that country in 1810; that he went to France, and that he came to the United States in 1816. [It is said that he was an officer in the army of Napoleon at the battle of Waterloo.] He declared his intention in the Marine Court of New York, as soon as he arrived in that city, to apply for a certificate of naturalization as an American citizen; and he accordingly obtained his certificate at St. Louis, in 1822. He had been admitted to practise in Kentucky, both by Judge Johnson and Judge Barry, the present Postmaster General of the United States, and moved on with the tide of emigration to St. Louis in Missouri.

FRIDAY, December 24.

Trial of Judge Peck.

After despatching several private subjects, and spending some time in Executive business,

The Senate again resolved itself into a Court of Impeachment.

The cross-examination of Mr. LAWLESS was continued up to the hour of adjournment. It reached only to the sixth specification in the publication of "A Citizen." The searching ability displayed by Mr. WIRT on the occasion was met by unusual vigor, talent, and decision, on the part of the witness.

The Senate adjourned till eleven, and the court till twelve o'clock, on Monday.

MONDAY, December 27.

Trial of Judge Peck.

The Senate again resolved itself into a High Court of Impeachment.

Mr. WIRT, the leading counsel for the respondent, resumed and concluded the cross-examination of Mr. LAWLESS.

TUESDAY, December 28.

Trial of Judge Peck.

After the transaction of some minor business,

The Senate again resolved itself into a High Court of Impeachment.

HENRY S. GEYER, a member of the Missouri bar, the Rev. THOMAS HORRELL, and ARTHUR L. MAGENNIS, another member of the Missouri bar, were examined, and cross-examined, as witnesses on behalf of the House of Representatives.

WEDNESDAY, December 29.

Trial of Judge Peck.

At twelve o'clock the Senate again resolved itself into a High Court of Impeachment.

Mr. MEREDITH announced the absence of his friend and colleague, (Mr. WIRT,) in this case. He had been called home to Baltimore by the dangerous illness of one of his children. He felt the embarrassment of his own situation, occasioned by this unpleasant circumstance. To be deprived of the aid of his colleague at any time, or on any occasion, would to him be a cause of regret; but in a case of this magnitude, so interesting to the respondent, and so interesting to the community, to be deprived of his services was a source of deep regret. What he should, therefore, propose, with the consent of the managers on the other side, was, that they should proceed to finish the examination of the witnesses, on the part of the United States, and then that this honorable court should adjourn over to Monday next, to await the return of Mr. Wirt.

Mr. BUCHANAN said, that the managers on the part of the House of Representatives would acquiesce in whatever the court might determine to be its pleasure on the occasion.

CHARLES S. HEMPSTEAD, EDWARD CHARLESS, and WHARTON RECTOR, witnesses in behalf of the impeachment, were then called, sworn, examined, and cross-examined.

The certificate of naturalization of Mr. Lawless, the protest of the Spanish Lieutenant Governor of Upper Louisiana, against the regulations of Morales, and sundry other papers, were produced as evidence.

Mr. BUCHANAN then said, that the Managers of the House of Representatives here rested the cause of the United States.

Mr. MEREDITH renewed his application for a suspension of the trial until Monday.

On motion of Mr. TAZEWELL, the court determined to adjourn over to Monday next, at twelve o'clock.

The Senate adjourned till to-morrow.

MONDAY, January 3, 1831.

The honorable JOHN C. CALHOUN, Vice President of the United States, appeared this day and took the Chair as President of the Senate.

Trial of Judge Peck.

After the transaction of some morning business, the Senate resolved itself into a High Court of Impeachment.

In consequence of the death of a daughter of Mr. WIRT, the leading counsel of Judge Peck, the Court of Impeachment, on motion of Mr. TAZEWELL, adjourned to twelve o'clock on Wednesday next.

Mr. LIVINGSTON submitted the following resolution:

Resolved, That nothing contained in any of the rules for conducting impeachments, made on the eleventh day of May, 1830, shall be so construed as to prevent any Senator, when he shall give his vote on the question of guilty or not guilty on any article in an impeachment, from assigning his reasons for such vote.

The Senate proceeded to the consideration of Executive business, and spent upwards of two hours on it, and then adjourned.

TUESDAY, January 4.

The Impeachment.

The resolution submitted yesterday by Mr. LIVINGSTON, explaining the rules to conduct impeachments, so as to allow any Senator to assign his reasons for his vote on the question of guilty or not guilty, was taken up.

Mr. L. said that the resolution was predicated upon a doubt whether the rules adopted in May last did, or did not, allow Senators to assign their reasons for the votes they might give on the pending impeachment. He was rather indifferent than otherwise as to the fate of the resolution. Its object was to settle the doubts which existed on the subject; and that object would be attained, whether the resolution should be rejected or adopted. Both sides of the question presented difficulties. The Court consisted of forty-eight members; and if every member were to express his sentiments, after the Managers and the Counsel for the respondent had been heard, a great deal of time would be consumed. On the other hand, the right to speak on the occasion was one which he considered a proper privilege; and he was, upon the whole, disposed to affirm it.

At the suggestion of Mr. FORSYTH, the resolution was laid upon the table until to-morrow.

WEDNESDAY, January 5.

Trial of Judge Peck.

At twelve o'clock, the Senate resolved itself into a High Court of Impeachment. The managers of the House of Representatives, and the respondent and his counsel, having taken their seats,

Mr. MEREDITH opened the grounds of defence. The honorable manager, who had stated the case for the impeachment, had properly adverted to its great importance, both to the respondent and the community. To the respondent personally, it was undoubtedly of very deep interest, in its character and its consequences. He was charged with the exercise of

an arbitrary, oppressive, and usurped judicial power, from malicious motives, to the great disparagement of public justice, and to the subversion of the liberties of the people of the United States. If this charge were sustained by this honorable court, the respondent would be doomed to meet not only the lasting reproaches of his fellow-citizens, but the grievous consequences of removal from office, and, at the discretion of the court, sentenced to a perpetual ostracism from the confidence and honors of his country. Considerations of this kind entitled him to the most serious, calm, and dispassionate deliberation upon his case. Other considerations called for cool and candid examination. The surest safeguard of the liberties of the people was to be found in the firm and independent administration of justice; and it became them to look to the safety of that portal which the constitution had placed around the judicial authority of the country. If the doctrine on which this impeachment had been supported were sustained, questions would arise out of the case of deep and lasting importance. His duty on the occasion was an exceedingly simple one; it was within prescribed limits; and to these he should confine himself. He had to state the grounds of defence on which the respondent relied, with the evidence to support that defence. The transaction which had produced this impeachment could be told in a very few words. The respondent, as Judge of the District Court of the United States in Missouri, had pronounced an opinion in a case of very great importance, and had been induced to publish that opinion in one of the newspapers of that country. It was already in proof, and would more fully be shown in evidence hereafter, that the opinion had been published not only at the request of the members of the bar, but of those persons generally who were interested in the case. One of the counsel concerned in it had thought proper afterwards to publish, anonymously, under the signature of "A Citizen," not a fair criticism upon it, but a bare enumeration of what he termed the errors of the Court, some of its principal errors in fact and in doctrine, some of the assumptions of the Judge, without assigning any reasons to sustain the charge. This publication, to the mind of the respondent, appeared to be a gross and palpable misrepresentation of his opinion, calculated to bring his court into disrespect; and he proceeded to attach and punish its author for the contempt. After a patient hearing of two or three days; after giving to the counsel of the author every opportunity to defend him, and to him every opportunity to purge himself of all intentional disrespect to the court; after the peremptory refusal of Mr. Lawless to answer the interrogatories propounded to him, and his reassertion of the truth of his publication, Judge Peck had sentenced him to twenty-four hours imprisonment and to a suspension from practice in his court for eighteen months. For this the respondent had been charged with a high misdemeanor, and with the wilful and malicious exercise of an arbitrary and oppressive judicial power. Mr. M. then proceeded to state the facts and evidence by which the respondent would be able to establish the positions, that a contempt had been committed by Mr. Lawless; that the court possessed a legal warrant to punish him for the contempt; and that, if not, the judge was influenced, in the case, by a sense of official obligation and duty, and not by the wilful, malicious, and arbitrary motive and intention imputed to him in the article of impeachment. He gave a history and character of the land claims, and the transactions out of which this impeachment had grown; the arduous and perilous difficulties which the respondent had to encounter in the exercise of his jurisdiction over the alleged concessions claimed under the Spanish authorities, and the frauds, meditated and apprehended, against which he had to guard. He described the case of Soulard, which had led to this impeachment, as a select and test cause, and said that it required no prophetic spirit in the Judge to foresee the dissatisfaction which an adverse decision would produce in all the claimants. It would extinguish their hopes, as long as the decision remained unrepealed, or the court unchecked. Accordingly, general dissatisfaction and dismay on the part of suitors did ensue. The Judge postponed the enrolment of his decree in the case, to enable Mr. Lawless and his associate counsel to put in their exceptions to it, or to furnish further argument upon it. This was declined by them. The Judge published his opinion. The motives for its publication were summed up in his answer to the charge in the article of impeachment. He perceived that such publications were usual both in England and America, and saw no impropriety in the practice. On the contrary, the branch of law involved in the case was new; its grounds had not been fully argued at the bar, and it was proper that they should be fully opened for the deliberate consideration of counsel; it was right that their clients should see the reasoning of the court on the subject, and, if satisfactory, that they should be saved from any further expense. It was proper that they should see that the court had not hastily and inconsiderately assumed the principles upon which the opinion was founded, but that it had conscientiously, upon facts and arguments which it could not resist, come to its conclusion in the case. Upon these reasons, the respondent confidently relied for the justification of the publication of his opinion. Eight days after, it was followed by the publication of "A Citizen," in another newspaper. In this, the respondent saw a gross and palpable misrepresentation, calculated to bring ridicule and contempt upon the court, to provoke the resentment of the claimants towards the Judge, and to break down the court by the force of public opinion. Was the respondent justified in these apprehensions? Notwithstanding the

gloss put upon the subject by the comparison which the honorable manager (Mr. MCDUFFIE) had instituted between the opinion of the Judge and the publication of Mr. Lawless, the respondent relied upon a candid examination and comparison by this honorable court.

He would be able to show, by gentlemen familiar with the case, that he was by no means singular in attributing misrepresentation to the publication of "A Citizen." Men of intelligence, lawyers, acquainted with all the facts and doctrines of the case, looking with a single eye to see whether misrepresentation was to be found in the publication or not, would establish the fact. These same witnesses would show the effect of this misrepresentation. If Mr. Lawless's publication could be considered an accurate representation of the conclusions to which the court had come in that case, they were so preposterous, so absurd, that nothing but ignorance—an ignorance amounting to idiocy—nothing but downright corruption, could have influenced the Judge. The effect of the misrepresentation had been to destroy confidence in the court; the disappointment of the claimants was converted into hostility to the Judge; and so great had been the distrust and dissatisfaction, that memorials were sent to Congress, the object of which was to deprive the court of its jurisdiction over the claims, and to transfer it to another tribunal.

If, therefore, the respondent saw, or this honorable court should believe that he conscientiously thought he saw, an evil design in the author of the publication, what course would they say was left him to pursue? Painful as it was, there was but one course for him to take; and that was to guard the sacred trust committed to his charge, and to punish the contempt as he had punished it. In this, Mr. M. contended, that the respondent had been justified by immemorial usage; by the inherent power of the courts; by a power which, although sometimes questioned, had remained untouched in every political struggle that had taken place; untouched in every constitution that had been adopted in the country. It was justified by American precedents, by the best lawyers and purest patriots that ever adorned the bench. It would be shown, in due time, that the power had been exercised by all the State courts; by the highest court in the Union; by the Circuit and District Courts of the United States, in cases far more doubtful than this. The respondent was justified, in treating and punishing the publication as a contempt, not only by the statute and common law, but by the law universal, by precedent, by the decisions of all the courts in the country. But, if he were not so justified, had he been governed by the malicious intention imputed to him in this impeachment, what motive could he have had? He had not had any personal disagreement with Mr. Lawless. No previous quarrel had occurred between them. No lurking resentment existed. All their measures with each other had been of a perfectly amicable nature. Was a malicious motive to be found in the character of the respondent? It would be shown that he was mild, conciliatory, and equable in temper; respectful and patient in his deportment towards all—to the members of the bar, the subordinate officers of the court, and to suitors. Was such a motive to be inferred from the transaction itself? It would be proved, not by those who could see the transaction only in colors of resentment; not by witnesses who were hostile, or who were present in court only at intervals while the case was pending; but by calm, disinterested, and intelligent witnesses, who were present during the whole or greater part of the time, that the manner of the Judge was not more vehement than it usually had been when his mind was deeply exercised on any subject; that it was as mild as any judge who had ever graced the bench; that the language he used on the occasion was addressed to the publication, and not to its author; and that, in fact, he looked beyond Mr. Lawless, to other and higher considerations, in awarding the attachment and punishment to which he had been sentenced.

[This is but "a bird's-eye view" of the speech of Mr. M.]

ROBERT WASH, Esq., a Judge of the Supreme Court of Missouri, was then called, sworn, and examined as a witness in behalf of the respondent. At the conclusion of his testimony—

The court adjourned over till twelve, and the Senate till eleven o'clock, to-morrow.

THURSDAY, January 6.

Trial of Judge Peck.

After the transaction of some minor business, at twelve o'clock the Senate again resolved itself into a High Court of Impeachment.

JOHN K. WALKER, of St. Louis, and Mr. PETTIS, a member of the House of Representatives, were called, sworn, and examined as witnesses, in behalf of the respondent. Then adjourned.

FRIDAY, January 7.

Trial of Judge Peck.

The Senate again resolved itself into a Court of Impeachment.

J. B. C. LUCAS, W. C. CARR, and JESSE E. LINDELL, were called, sworn, and examined in behalf of the respondent. Judge WASH was re-examined in part.

The court then adjourned to Monday.

The Senate ordered two opinions of Judge PECK to be printed, and also adjourned to Monday.

MONDAY, January 10.

Trial of Judge Peck.

After disposing of petitions, resolutions, and

some private bills, the Senate again resolved itself into a High Court of Impeachment.

Mr. MEREDITH apologized for the absence of Mr. WIRT, occasioned by indisposition.

The depositions of EDWARD BATES, JOHN BENT, and SAMUEL MERRY, in behalf of the respondent, were, with the exception of certain parts, expunged by agreement, and agreeably to a decision of the court, received and read as evidence. Judge CARR was again called and re-examined; and two or three other witnesses gave their testimony. The whole evidence was closed, with the exception of some papers in the General Land Office.

TUESDAY, January 11.

Trial of Judge Peck.

The Senate again sat as a Court of Impeachment.

The sitting was consumed in the production and examination of documentary evidence and oral testimony in the case of Judge PECK. The honorable Mr. BENTON was called to prove the correctness of certain extracts translated by him from a Spanish ordinance into English. Colonel LAWLESS, Mr. GEYER, and one or two other witnesses were re-examined. Finally, at about four o'clock, it was announced by the managers for the House and the counsel for the respondent, that the evidence was closed, and that they would proceed with the argument to-morrow.

Adjourned.

WEDNESDAY, January 12.

Trial of Judge Peck.

The Senate again resolved itself into a High Court of Impeachment.

In consequence of the continued indisposition of Mr. WIRT, Mr. TAZEWELL moved an adjournment of the court till to-morrow, when his physicians thought he might be sufficiently restored to attend the trial.

The court accordingly adjourned.

The Senate then proceeded to the consideration of Executive business; and, after spending some time thereon, adjourned.

THURSDAY, January 13.

Trial of Judge Peck.

The Senate again resolved itself into a Court of Impeachment.

The VICE PRESIDENT presented a letter from one of the physicians of Mr. WIRT, expressive of the opinion that he could not at present leave his room, without some danger of a relapse at a more important crisis in the pending trial, and that by Monday he would be entirely restored to health.

On motion of Mr. SMITH, of Maryland, the Court adjourned to meet again on Monday next, at twelve o'clock.

MONDAY, January 17.

Trial of Judge Peck.

A message was received from the House of Representatives, announcing the resolution of that House to attend the Senate, from day to day, during the argument in the impeachment now pending against JAMES H. PECK, District Judge of Missouri.

The Senate then again resolved itself into a High Court of Impeachment.

Judge CARR appeared at the bar, and was permitted to make some explanation on a point of his former testimony.

Mr. SPENCER, of New York, a manager on the part of the House of Representatives, then rose, and addressed a very learned and able argument to the court in support of the impeachment. Having concluded at four o'clock, the court adjourned.

TUESDAY, January 18.

Trial of Judge Peck.

After receiving petitions, resolutions, and reports of committees, the Senate again resolved itself into a High Court of Impeachment.

Mr. WICKLIFFE, one of the managers of the House of Representatives, advanced and maintained the positions that Judge Peck had no legal jurisdiction over the publication of Mr. Lawless, even supposing it to have been a contempt, for which he imprisoned and suspended him; and that, in truth, that publication was no contempt at all. Mr. W. defended the liberty of the press with energy and zeal.

Mr. BUCHANAN and Mr. STORRS stated, for the information of the counsel of the respondent, who will to-morrow commence the argument in his defence, the additional authorities which they intended to produce in support of the impeachment.

The court and Senate then adjourned.

WEDNESDAY, January 19.

Trial of Judge Peck.

After disposing of some morning business, the Senate resumed the impeachment.

Mr. MEREDITH addressed the court for three hours, in defence of the respondent.

THURSDAY, January 20.

Trial of Judge Peck.

The Senate spent the principal part of to-day as a Court of Impeachment.

Mr. MEREDITH continued his argument in defence of the respondent.

FRIDAY, January 21.

Impeachment Expenses.

The bill making provision for the payment of the witnesses, and of other expenses incurred in the trial of James H. Peck, District Judge of the United States for the District of Missouri, was taken up. [The bill allows each witness four dollars per day, and twenty cents mileage for travelling expenses.]

Mr. SMITH, of Maryland, said that the witnesses who had attended the trial of Judge Chase, had been allowed but three dollars a day, and twelve and a half cents mileage. He wished to know the reasons which had induced the committee to increase the compensation of the witnesses and the mileage in the present case.

Mr. IREDELL replied, that when Judge Chase was tried, the pay of members of Congress was six dollars: it was now eight dollars. The committee conceived it but just to fix the compensation to the witnesses at one-half of that which was allowed members.

Mr. GRUNDY said that another consideration showed the propriety of the increase. These witnesses had come from a much greater distance than the witnesses in the case of Judge Chase. Most of them were professional men, and had, by their absence from home, lost nearly a half year's practice. He should vote for the four dollars, and would have voted for six dollars if that sum had been in the bill.

The blank in the bill was filled with the sum of twelve thousand dollars for the expenses of the trial; and, thus amended, it was engrossed, read a third time, and passed.

Trial of Judge Peck.

The Senate then again resolved itself into a High Court of Impeachment.

Mr. MEREDITH continued his argument for the respondent until half past three o'clock, when the court and Senate adjourned.

SATURDAY, January 22.

Trial of Judge Peck.

The Senate having again resolved itself into a Court of Impeachment.

Mr. MEREDITH concluded his argument at twenty minutes past one o'clock.

Mr. WIRT then rose to address the court for the respondent. He regretted that he had been the unwilling cause of so much delay in the progress of this trial, and thanked the honorable court for the humanity of the indulgence which they had extended towards him. His friend might also have consumed much more time, in the opinion of some, than was necessary; but it would be recollected that two-thirds of that time had been used in reading precedents from the books. In a case in which the respondent was so deeply concerned, it would be a dereliction of duty on the part of his counsel, if they were to relinquish any of the ground which the honorable managers had deemed material to their argument; and time had probably been saved by the reading of the books which had been produced by his colleague. It would not be necessary to read them again. He should content himself with bestowing upon them a few passing remarks when he should come to the cases which they presented. Some topics which had, he could not but presume, been introduced for effect, it would be necessary for him to notice. In doing so, he begged to be understood as treating the honorable managers with every possible respect. He knew the amiable, upright, and enlightened qualities which adorned them. Whatever they had deemed of importance, he could not be so presumptuous as to pass by unregarded. It had been stated that the House of Representatives, by a large majority, in which party had no share, had voted this impeachment. What was the object of this remark? Why was it introduced here? Could it enter into the consideration of this honorable court, whether the House of Representatives had been hasty or not; whether party had influenced them in the vote which they gave for this impeachment? Would it be decorous in the respondent, or in those who were connected with him, to impeach their proceedings? He knew too well his duty to that honorable House, to this honorable court, and to his humble self, to step so far out of his way as to question the motives for this impeachment. The House of Representatives were the grand inquest of the nation. Their article of impeachment against Judge Peck was the finding of the grand jury. Would it be proper, in a case before a petit jury, for counsel to appeal to the proceedings of the grand jury; to say that they had, by a large majority uninfluenced by party spirit, found a bill of indictment? Would not the court, in that case, stop counsel, and say to him, sir, we have nothing to do with the grand jury, or its motives; we are to try this case upon its merits, without reference to what passed in the grand jury on the subject? The finding of the grand inquest is simply the accusation. The honorable House had not come here to sacrifice a victim whom they had foredoomed to destruction. They had done nothing more than to declare that the offence with which the respondent had been charged, was worthy of a trial. The respondent was not there, before the honorable House, upon his trial. They had sent him here to be tried. What was the fundamental feature of a trial of that sort? It was, that the accused was presumed to be innocent until he had been found guilty. But, if the remark of which he was now complaining were to have weight, that principle would be reversed. The accused was to be presumed to be guilty until proved to be innocent. He hoped to hear no more of the majority, or the motive by which this impeachment

had been instituted by the honorable House. He considered such remarks improper. The respondent stood here unknown, almost alone, a stranger from the western wilds, to breast the storm of this impeachment. He trusted to this honorable court for a fair trial, and relied upon the correctness, and innocence, and purity, of his own conduct, for an honorable acquittal. He would be tried by the simple, naked facts and principles of the case, and not by the dramatic exhibition of fancied analogies which they had witnessed. Was the respondent to be involved in the turpitude of all the wicked judges of England; in the guilt of the unsparing Jeffreys, the tumultuous Scroggs, and the tyrant Bromley? He trusted not: he hoped that he would be tried upon his own merits alone. He admonished the honorable managers, that something was continually occurring to remind us of the infirmity of human reason contending against human prejudice. This must teach charity to all. He apprehended the existence of some extraordinary prejudice which had influenced and inflamed the spirit of this prosecution. He, too, might be the victim of prejudice; of that friendship which a close intimacy had produced with the respondent. He admitted an equality of infirmity with the honorable managers. This honorable court would decide between them. To what other cause than prejudice could he impute the language in which the respondent had been held up as a judicial tyrant, a petty provincial judge, a monster walking over the fallen bodies of the constitution and laws of his country? This picture of wickedness and horror had been sent as far as the press could range; as far as the wings of genius and eloquence could send it. Many a father in the remote parts of the country had read this account with feelings of abhorrence. With the paper in his hand, he had probably said to his son—see, what a monster is now before the Senate of the United States! If your country should ever elevate you to public station, never become such a monster as this Peck. He may no doubt have had respectable parents; he may once have been respectable himself; but see what a monster of crime, of shame, and of ignominy, he has now become! How long would it not be before this cruel error could be corrected; before it would be seen, upon the testimony of the most respectable gentlemen, that this monster was one of the most mild, patient, kind and courteous of human beings: so amiable, that in the language of one of the witnesses, he was dear to all who knew him. He could not help ascribing the terrible picture which had been drawn of the respondent, to some unaccountable prejudice. He adverted to other topics, of which the honorable managers appeared to him to have taken a discolored and distorted view.

The respondent had been represented as an enemy to the freedom of the press; a principle sacred to all. He was represented to have scoffed at it. This judicial monster was described as having walked over the prostrate liberty of the press, and as having attempted to sneer and snarl it out of existence. Where had he said this of it? Where had he uttered one sentiment of disrespect towards the liberty of the press? Not here, certainly. But he had done so in his defence before the House of Representatives, which had been introduced as evidence here, for the purpose of establishing this charge against the respondent. Look at that defence, and see whether he has treated the liberty of the press with contempt. "It is said, that in punishing this publication as a contempt, the judge has invaded the liberty of the press." What is the liberty of the press? And in what does it consist? Does it consist in a right to vilify the tribunals of the country, and to bring them into contempt, by gross and wanton misrepresentations of their proceedings? Does it consist in a right to obstruct and corrupt the streams of justice, by poisoning the public mind with regard to causes in these tribunals, before they are heard? Is this a correct idea of the liberty of the press? If so, the defamer has a charter as free as the winds, provided he resort to the press for the propagation of his slander; and, under the prostituted sanction of the liberty of the press, hoary age and virgin innocence lie at his mercy. This is not the idea of the liberty of the press which prevails in courts of justice, or which exists in any sober or well-regulated mind. The liberty of the press is among the greatest of blessings, civil and political, so long as it is directed to its proper object, that of disseminating correct and useful information among the people. But this greatest of blessings may become the greatest of curses, if it shall be permitted to burst its proper barriers. The river Mississippi is a blessing to the country through which it flows, so long as it keeps within its banks; but it becomes a scourge and a destroyer when it breaks them. The liberty of the press has always been the favorite watchword of those who live by its licentiousness. It has been, from time immemorial, is still, and ever will be, the perpetual *decantatum* on the lips of all libellers. Oswald attempted to screen himself under its ægis, in the case which has been cited from the 1st Dallas. But the attempt was in vain. The court taught him the difference between the liberty of the press and the licentiousness of the press; and, in his further attempt to raise an impeachment against the judges for that sentence, the House of Delegates confirmed the wholesome lesson. If, indeed, the liberty of the press was a panoply broad enough to cover every thing done in its name, nothing in the form of a publication could ever have been punished as a contempt of court. In all the reported cases, in which those publishers have been called to answer for a contempt, wherever the defence has appeared in the report, it is the liberty of the press which is the perpetual theme. It is uniformly claimed to be the right of the citizen to question the acts of all public men, and the changes are con-

tinually rung on that great palladium of human rights and human happiness—the liberty of the press; as if human rights and human happiness could be promoted by the prostration and destruction of courts of justice, or by poisoning their streams in the fountain head. It is unnecessary to pursue this subject. The Judge has never pretended that his opinions are not to be questioned. He insists, however, that they are to be questioned only according to the laws of the land. One mode of questioning them, under these laws, is by appeal to a superior court; and, after the subject-matter shall have been finally decided, another mode of questioning them is, by respectful discussion, either in the public prints or elsewhere. In the present case, the first mode of questioning the opinion, that by appeal, had been resorted to. For the second mode, that of respectful discussion, the case was not ready, because the subject-matter had not been disposed of finally; and even if it had been, it has been shown that there was no semblance of investigation in this article; no pretence of discussion of any kind. It was sheer misrepresentation; and it does not follow, that, because an opinion of a court may be respectfully discussed, it may, therefore, be misrepresented; much less, that it may be so misrepresented as not only to impair the confidence of the public in the dignity, intelligence, and purity of the tribunal, but to render both the judge and the court objects of universal contempt, scorn, and ridicule; and least of all, that, in doing this, a strong prejudice shall also be infused into the public mind with regard to causes still pending in the court. Was this (demanded Mr. Wirt) a sneer at the liberty of the press? Was there here any snarl at the liberty of the press? Was the declaration, that it was the greatest of human blessings, confined to the dissemination of truth and intelligence among the people, an attempt to bring the liberty of the press into contempt? Was not the doctrine here laid down by the Judge the sound doctrine concerning the liberty of the press? And would it not meet the approbation of all, except the libeller? To be useful, the liberty of the press must be restrained. The principle of restraint was impressed upon every part of creation. By restraint the planets were kept in their orbits. The earth performed its regular evolutions by the restraint of the centrifugal force operating upon it. The vine would shoot into rank luxuriance, if not under the restraint of the laws of nature, by which every thing was preserved within its proper bounds. Was not every thing on earth impressed with this principle? and was not the liberty of the press to be restrained to the performance of its rightful functions of propagating truth for just ends? It was not always those who were loudest in their clamors for the liberty of the press, who were its best friends. There be those who, when they hear those bursts of genius and eloquence upon the liberty of the press, could say, like poor Cordelia—

"Unhappy that I am, I cannot heave
My heart into my mouth; I love your Majesty
According to my bond; nor more, nor less."

He thought there had been no occasion for the remarks which had been made on this subject. Judge Peck loved the liberty of the press with as much purity as those who had been so loud in its praises. If he had, in the commencement of this trial, been subjected to a commentary so severe, what might not be expected in its sequel? It had been charged upon the respondent, that he had dared to attempt to buy off this impeachment by an intimation that he was entitled to consideration and exemption, because he had decided the case of Soulard in favor of the United States. It had been alleged that he had tried to buy off the House of Representatives by dirty acres. If he had done so, he was a vile and degraded man, and he would add, one of the most consummate fools that ever sat upon the bench. But where had he said this? At the close of his defence, he (Judge Peck) observed, "that, in this proceeding, he was actuated by a sense of official duty. He considered it his duty to sustain the dignity and authority of the court over which he had been appointed to preside: he considered it due to the Government which he represented; due to the tribunal, and due to the suitors whose rights were committed to its protection, to punish this contempt as he did punish it. He did consider himself, and does still consider himself, as sustained, at every step, by the highest authority. He believed it, conscientiously, to be his solemn and imperious duty to make the example which he did make, more especially in relation to the country in which he holds his courts, and the nature of the claims which he was called upon to adjudicate, and which had produced this agitation. If, in so doing, he has erred, he has erred in company with judicial characters with whom any judge may be proud to associate; and he has yet to learn that such an error would be a high misdemeanor in the sense of the Constitution of the United States. Judge Peck is perfectly aware of the purposes to be answered by his removal, and is, therefore, not at all surprised at the pertinacity with which it has been sought for the last four years. Whether these purposes are such as the interests of the United States call upon them to countenance, by ordering further proceedings in this case, is a question for others, not for Judge Peck. Confident he is, that, if he had been made of more pliant materials, and could have reconciled it to himself to consult his repose, rather than his sense of duty, the House would not have been troubled with this inquiry." Was this, sir, a proposition to buy off impeachment? Was this the language of a man crouching under the charge which had been alleged against him? There was no attempt, here, to screen himself by a bribe; by an appeal to the interests of the honorable House of Representatives. It was the language of a man indignantly asserting his innocence,

and turning upon his accuser. It was no attempt to buy off punishment. Let candid and honorable men read and decide for themselves. There was another circumstance which he felt himself called upon to notice with unspeakable regret. He had heard of it with pain, while confined to his bed. The respondent, held up, as he had been, before these crowded galleries, and this assembled multitude, as a judicial monster; a petty provincial tyrant; thus caricatured, empaled and crucified, before this nation, with these lacerated feelings, having occasion to speak to a point of evidence, he had betrayed an emotion with his trembling hand; a tear had started from his eye. Was it wonderful that the respondent, innocent and simple-hearted as a child, with his reputation at hazard; with an aged parent, whose gray hairs he did not wish to send down to the grave with sorrow, should have thus betrayed his feelings on the occasion? Yet, an honorable manager (Mr. WICKLIFFE) had represented him as shedding feigned tears, crocodile tears, before this assembly and this nation. Did the honorable manager recollect the prosecution of Sir Walter Raleigh by Sir Edward Coke? Did he remember the spirit in which that prosecution had been conducted? Did he recollect that Sir Edward Coke had stigmatized that gallant soldier as a spider of hell? Let me ask the honorable manager which character he would rather bear with posterity—that of Sir Walter Raleigh or Sir Edward Coke? He had the pleasure of a personal acquaintance with the honorable manager; he well knew that unkindness and barbarity were far removed from his heart. What, then, but some unaccountable prejudice could have induced these remarks? They had gone to the world. It would be a long time before this trial would go before the world, to correct the impressions which the representations of honorable managers had made. He had, therefore, been anxious to show that the respondent was not the judicial monster that he was charged with being; that he had not violated the liberty of the press; that he had not attempted to buy off this impeachment; that he was amiable, patient, and forbearing, both as a man and a judge, and that the epithets applied to him had been the effect of prejudice, of heated and perverted imaginations, having no foundation in fact.

Mr. WIRT was proceeding to consider the merits of the case; when at the suggestion of Mr. WEBSTER, the court adjourned.

MONDAY, January 24.

Trial of Judge Peck.

The Senate having again resolved itself into a Court of Impeachment,

Mr. MCDUFFIE said, that in consequence of a remark of Mr. WIRT yesterday, he felt himself called upon to say, in substance, that the publication of his remarks, in opening the case against Judge Peck, had been made without his authority; that the report of these remarks must have appeared evidently imperfect, though probably as perfect as, under the circumstances, it could have been; and that, if he had been consulted, he should have advised against the publication.

Mr. WIRT acceded to the correctness of these suggestions, and appeared to do so the more readily from the fact that he had seen his own remarks, made on Saturday, published this morning, without his having been consulted on the subject. He added, that he was sure that nothing had been said by the honorable manager in his opening speech, of the truth of which he had not been entirely satisfied.

TUESDAY, January 25.

Trial of Judge Peck.

The Senate again resolved itself into a High Court of Impeachment.

Mr. WIRT occupied four hours in concluding his speech for the respondent. Wit, sarcasm, searching argument, and impressive eloquence, poured forth in streams, riveted the attention and elicited the admiration of a crowded Senate-room and crowded galleries during that long space of time. Whatever might be the fate of the respondent, said the graceful orator, in subdued and almost exhausted tones; whether convicted or acquitted, he should always be proud to take him by the hand as that noblest of God's works, AN HONEST MAN, and to call him HIS FRIEND.

The court and Senate then adjourned.

WEDNESDAY, January 26.

Trial of Judge Peck.

Mr. STORRS addressed the Court in support of the impeachment. He maintained the position, that no free citizen could be punished by the summary process of attachment for a libel or contempt against any court in a cause not pending in that court; that such a power had never been exercised, even by the courts of England; that the charge against Judge Peck was not so much for suspending Mr. Lawless, as an attorney, from practice in his court, but for imprisoning him, and depriving him of his liberty as a citizen, without indictment and trial by jury; that libels or contempts, for causes not pending in court, were misdemeanors, which could only be punished by indictment and trial, and that the conduct of Judge Peck tended to break down all the securities and guards which the law had raised for the protection of the liberties of the American people.

Before he concluded, the court adjourned.

THURSDAY, January 27.

Mr. CLAYTON, from the committee appointed to investigate the present condition of the Post

Office Department, offered the following resolution, observing that the committee were unanimously of the opinion, that, in order to prosecute that investigation with effect, it was necessary that they should be empowered to send for persons and papers:

Resolved, That the Select Committee appointed to examine and report the present condition of the Post Office Department have power to send for persons and papers.

Mr. CLAYTON moved the second reading and adoption of the resolution at this time; but this motion requiring the unanimous assent of the Senate for its passage, and Mr. BENTON objecting to it, the resolution lies on the table one day.

Mr. LIVINGSTON submitted the following resolution:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of making further provision for the support of Africans captured by vessels of the United States, and brought into the United States.

Trial of Judge Peck.

The Senate then again resolved itself into a Court of Impeachment.

Mr. STORRS concluded his argument in support of the impeachment. Its sequel was peculiarly impressive and eloquent. One sentiment uttered by the honorable manager is especially worthy of record. He said the best support of the judiciary was to be found in the affections of the people. The people would be true to the judiciary as long as they were true to themselves. The judiciary would find protection with the people, and in their legislative halls, until they should become so debased as to be unworthy of protection. It was not by the usurpation of an unlawful and tyrannical power, nor by the exercise of an unlawful jurisdiction, that they could expect their independence to be respected or preserved; and he seemed to press this point so far as to think that the character, utility, and fate of the judicial branch of the Government depended upon the decision of this case.

The court and Senate adjourned.

FRIDAY, January 28.

The resolutions submitted yesterday by Mr. CLAYTON, and Mr. LIVINGSTON, were severally taken up and adopted.

Trial of Judge Peck.

The Senate again resolved itself into a High Court of Impeachment.

Mr. WIRT, with permission, explained a remark which he was understood to have made towards the conclusion of his argument in favor of the respondent.

Mr. BUCHANAN then rose, and addressed the court in an able argument in support of the impeachment. He declared, that the usurpation of an authority not legally possessed by a judge, for the manifest abuse of a power really given, was a misbehavior in the sense of the constitution, for which he should be dismissed from office. He contended, that the conduct of Judge Peck, in the case of Mr. Lawless, was in express violation of the constitution and the laws of the land, that the circumstances of that case were amply sufficient to show a criminal intention on his part in the summary punishment of Mr. Lawless; that, in order to prove the criminality of his intention, it was not necessary to demonstrate an actually malicious action, or a lurking revenge; that the infliction upon Mr. Lawless of a summary and cruel punishment, for having written an article decorous in its language, was itself sufficient to prove the badness of the motive; that the consequences of the Judge's actions were indicative of his intentions; that our courts had no right to punish, as for contempts, in a summary mode, libels, even in pending causes; and that, if he succeeded, as he believed he should, in establishing these positions, he should consider that he had a right to demand the judgment of the court against the respondent. The honorable manager continued to address the court for three hours and a quarter; and finding that he could not conclude his argument at this sitting, the court adjourned till to-morrow.

SATURDAY, January 29.

Trial of Judge Peck.

The Senate then again resolved itself into a Court of Impeachment.

Mr. BUCHANAN concluded his argument in support of the impeachment. He took the further position, that the publication of Mr. Lawless, under the signature of "A Citizen," could not, in a trial upon an indictment for libel, be established to be libellous, according to the constitution and laws of the land; that the paper was, on its face, perfectly harmless in itself; and that, so far as it went, it was not an unfair representation of the opinion of Judge Peck. The honorable manager critically and legally analyzed the nine last specifications in the publication, to establish these points. He then proceeded to sum up and descant upon the testimony produced in the case before the Court of Impeachment, in order to show the arbitrary and cruel conduct of Judge Peck; and, in a peroration, marked by its ardent eloquence, he declared, that if this man escaped, the declaration of a distinguished politician of this country, that the power of impeachment was but the scarecrow of the constitution, would be fully verified; that when this trial commenced, he recoiled with horror from the idea of limiting, and rendering precarious and dependent, the tenure of the judicial office, but that the acquittal of the respondent would reconcile him to that evil, as one less than a hopeless and remediless submission to judicial usurpation and tyranny,

at least so far as respected the inferior courts. God forbid that the limitation should ever be extended to the Supreme Court? Mercy to the respondent would be cruelty to the American people. In the name, therefore, of the people of the United States, whose liberties he had violated—in the name of the judiciary, whose character he had injured and tarnished—he respectfully asked of this honorable court the conviction of the respondent.

The argument being concluded on both sides, on motion of Mr. WEBSTER, the court then resolved to meet again at 12 o'clock on Monday morning next, in order to proceed further in the consideration of this impeachment.

Adjourned.

MONDAY, January 31.

Trial of Judge Peck.

The Senate again resolved itself into a Court of Impeachment; and

The House of Representatives, with their managers, and the counsel for the respondent, having come into court,

Mr. TAZEWELL moved the following resolution:

Resolved, That this court will now pronounce judgment upon James H. Peck, Judge of the District Court of the United States for the District of Missouri.

Mr. TAZEWELL observed, that if there was one member of the court unprepared for a decision on this impeachment at this time, or preferred any other mode of proceeding to pronounce judgment, he would cheerfully withdraw the resolution.

No objection having been made, the resolution was unanimously adopted.

The names of the Senators were then called over by the Secretary.

The Secretary of the Senate, under the direction of the VICE PRESIDENT, read the article of impeachment exhibited by the House of Representatives against James H. Peck, Judge of the District Court of the United States for the District of Missouri.

The VICE PRESIDENT rose and said—

SENATORS: You have heard the article of impeachment read: you have heard the evidence and the arguments for and against the respondent: when your names are called, you will rise from your seats, and distinctly pronounce whether he is guilty or not guilty, as charged by the House of Representatives.

The VICE PRESIDENT then, in an audible voice, put the following question to each of the Senators in alphabetical order:

Mr. Senator ———: What say you: Is James H. Peck, Judge of the District Court of the United States for the District of Missouri, guilty or not guilty of the high misdemeanor charged in the article of impeachment exhibited against him by the House of Representatives?

Each Senator rose from his seat, as this question was propounded to him, and answered as follows:

GUILTY.—Messrs. Barnard, Brown, Clayton, Dickerson, Dudley, Ellis, Forsyth, Hayne, Iredell, Kane, King, Livingston, McKinley, Poindexter, Robbins, Sanford, Smith of Maryland, Smith of South Carolina, Troup, Tyler, Woodbury—21.

NOT GUILTY.—Messrs. Barton, Bell, Burnet, Chase, Foot, Frelinghuysen, Grundy, Hendricks, Holmes, Johnston, Knight, Marks, Naudain, Noble, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Webster, White, Willey—22.

Mr. BENTON and Mr. ROBINSON were excused from voting. Mr. BIBB, Mr. CHAMBERS, and Mr. ROWAN were absent.

The VICE PRESIDENT again rose, and observed—

SENATORS: Twenty-one Senators having voted that the respondent is guilty, and twenty-two that he is not guilty; and two-thirds of the Senate not having voted for his conviction, it becomes the duty of the Chair to pronounce, that James H. Peck, the Judge of the District Court of the United States for the District of Missouri, stands acquitted of the charge exhibited against him by the House of Representatives.

The VICE PRESIDENT then directed the Marshal to adjourn the Court of Impeachment; and it was accordingly adjourned *sine die*.

WEDNESDAY, February 2.

Bank of the United States—Non-Renewal of the Charter.

Mr. BENTON, in pursuance of notice given yesterday, rose to ask leave to introduce the following resolution:

Resolved by the Senate and House of Representatives of the United States of America, in Congress assembled, That the charter of the Bank of the United States ought not to be renewed.

Mr. BENTON commenced his speech in support of the application for the leave he was about to ask, with a justification of himself for bringing forward the question of renewal at this time, when the charter had still five years to run; and bottomed his vindication chiefly on the right he possessed, and the necessity he was under to answer certain reports of one of the committees of the Senate, made in opposition to certain resolutions relative to the bank, which he had submitted to the Senate at former sessions, and which reports he had not had an opportunity of answering. He said it had been his fortune, or chance, some three years ago, to submit a resolution in relation to the undrawn balances of public money in the hands of the bank, and to accompany it with some poor remarks of unfavorable implication to the future existence of that institution. My resolution (said Mr. B.) was referred to the Committee on Finance, who made a report de-

cidedly adverse to all my views, and eminently favorable to the bank, both as a present and future institution. This report came in on the 18th of May, just fourteen days before the conclusion of a six months' session, when all was hurry and precipitation to terminate the business on hand, and when there was not the least chance to engage the attention of the Senate in the consideration of any new subject. The report was, therefore, laid upon the table unanswered, but was printed by order of the Senate, and that in extra numbers, and widely diffused over the country by means of the newspaper press. At the commencement of the next session, it being irregular to call for the consideration of the past report, I was under the necessity to begin anew, and accordingly submitted my resolution a second time, and that quite early in the session; say on the first day of January. It was my wish and request that this resolution might be discussed in the Senate, but the sentiment of the majority was different, and a second reference of it was made to the Finance Committee. A second report of the same purport with the first was a matter of course; but what did not seem to me to be a matter of course was this: that this second report should not come in until the 20th day of February, just fourteen days again before the end of the session, for it was then the short session, and the Senate as much pinched as before for time to finish the business on hand. No answer could be made to it, but the report was printed, with the former report appended to it; and thus, united like the Siamese twins, and with the apparent, but not real sanction of the Senate, they went forth together to make the tour of the Union in the columns of the newspaper press. Thus, I was a second time out of court; a second time non-suited for want of a replication, when there was no time to file one. I had intended to begin *de novo*, and for the third time, at the opening of the ensuing session; but, happily, was anticipated and prevented by the annual Message of the new President, (General JACKSON,) which brought this question of renewing the bank charter directly before Congress. A reference of this part of the Message was made, of course, to the Finance Committee: the committee, of course, again reported, and with increased ardor, in favor of the bank. Unhappily this third report, which was an amplification and reiteration of the two former, did not come in until the session was four months advanced, and when the time of the Senate had become engrossed, and its attention absorbed, by the numerous and important subjects which had accumulated upon the calendar. Printing in extra numbers, general circulation through the newspaper press, and no answer, was the catastrophe of this third reference to the Finance Committee. Thus was I non-suited for the third time. The fourth session has now come round; the same subject is again before the same committee on the reference of the part of the President's second annual Message which relates to the bank; and, doubtless, a fourth report of the same import with the three preceding ones, may be expected. But when? is the question. And, as I cannot answer that question, and the session is now two-thirds advanced, and as I have no disposition to be cut off for the fourth time, I have thought proper to create an occasion to deliver my own sentiments, by asking leave to introduce a joint resolution, adverse to the tenor of all the reports, and to give my reasons against them, while supporting my application for the leave demanded; a course of proceeding which is just to myself, and unjust to no one, since all are at liberty to answer me. These are my personal reasons for this step, and a part of my answer to the objection that I have begun too soon. The conduct of the bank, and its friends, constitutes the second branch of my justification. It is certainly not "too soon" for them, judging by their conduct, to engage in the question of renewing the bank charter. In and out of Congress, they all seem to be of one accord on this point. Three reports of committees in the Senate, and one from a Committee of the House of Representatives have been made in favor of the renewal; and all these reports, instead of being laid away for future use—instead of being stuck in pigeon holes, and labelled for future attention, as things coming forth prematurely, and not wanted for present service—have, on the contrary, been universally received by the bank and its friends, in one great tempest of applause; greeted with every species of acclamation; reprinted in most of the papers, and every effort made to give the widest diffusion, and the highest effect, to the arguments they contain. In addition to this, and at the present session, within a few days past, three thousand copies of the exposition of the affairs of the Bank have been printed by order of the two Houses, a thing never before done, and now intended to blazon the merits of the bank. [Mr. SMITH, of Maryland, here expressed some dissent to this statement; but Mr. B. affirmed its correctness in substance if not to the letter, and continued.] This does not look as if the bank advocates thought it was *too soon* to discuss the question of renewing the charter; and, upon this exhibition of their sentiments, I shall rest the assertion and the proof, that they do not think so. The third branch of my justification rests upon a sense of public duty; upon a sense of what is just and advantageous to the people in general, and to the debtors and stockholders of the bank in particular. The renewal of the charter is a question which concerns the people at large; and if they are to have any hand in the decision of this question—if they are even to know what is done before it is done, it is high time that they and their Representatives in Congress should understand each other's mind upon it. The charter has but five years to run; and if renewed at all, will probably be at some short period, say two or three years, before the time is out, and at any time

sooner that a chance can be seen to gallop the renewal through Congress. The people, therefore, have no time to lose, if they mean to have any hand in the decision of this great question. To the bank itself, it must be advantageous, at least, if not desirable, to know its fate at once, that it may avoid (if there is to be no renewal) the trouble and expense of multiplying branches upon the eve of dissolution, and the risk and inconvenience of extending loans beyond the term of its existence. To the debtors upon mortgages, and indefinite accommodations, it must be also advantageous, if not desirable, to be notified in advance of the end of their indulgences: so that, to every interest, public and private, political and pecuniary, general and particular, full discussion, and seasonable decision, is just and proper.

I hold myself justified, Mr. President, upon the reasons given, for proceeding in my present application; but, as example is sometimes more authoritative than reason, I will take the liberty to produce one, which is as high in point of authority as it is appropriate in point of application, and which happens to fit the case before the Senate as completely as if it had been made for it. I speak of what has lately been done in the parliament of Great Britain. It so happens, that the charter of the Bank of England is to expire, upon its own limitation, nearly about the same time with the charter of the Bank of the United States, namely, in the year 1833; and as far back as 1824, no less than nine years before its expiration, the question of its renewal was debated, and that with great freedom, in the British House of Commons. I will read some extracts from that debate, as the fairest way of presenting the example to the Senate, and the most effectual mode of securing to myself the advantage of the sentiments expressed by British statesmen.

[THE EXTRACTS.]

Sir Henry Parnell.—"The House should no longer delay to turn its attention to the expediency of renewing the charter of the Bank of England. Heretofore it had been the regular custom to renew the charter several years before the existing charter had expired. The last renewal was made when the existing charter had eleven years to run; the present charter had nine years only to continue, and he felt very anxious to prevent the making of any agreement between the Government and the bank for a renewal, without a full examination of the policy of again conferring upon the bank of England any exclusive privilege. The practice had been for Government to make a secret arrangement with the bank; to submit it immediately to the proprietors of the bank for their approbation, and to call upon the House the next day to confirm it, without affording any opportunity of fair deliberation. So much information had been obtained upon the banking trade, and upon the nature of currency in the last fifteen years, that it was particularly necessary to enter upon a full investigation of the policy of renewing the bank charter before any negotiation should be entered upon between the Government and the bank; and he trusted the Government would not commence any such negotiation until the sense of Parliament had been taken on this important subject."

"Mr. Hume said it was of very great importance that his majesty's ministers should take immediate steps to free themselves from the trammels in which they had long been held by the bank. As the interest of money was now nearly on a level with what it was when the bank lent a large sum to Government, he hoped the Chancellor of the Exchequer would not listen to any application for a renewal of the bank charter, but would pay off every shilling that had been borrowed from the bank. * * * * * * Let the country gentlemen recollect that the bank was now acting as pawn-broker on a large scale, and lending money on estates, a system entirely contrary to the original intention of that institution. * * * * * * * * * He hoped, before the expiration of the charter, that a regular inquiry would be made into the whole subject."

Mr. Edward Ellice.—"It (the Bank of England) is a great monopolizing body, enjoying privileges which belonged to no other corporation, and no other class of his majesty's subjects. * * * * He hoped that the exclusive charter would never again be granted; and that the conduct of the bank during the last ten or twelve years would make Government very cautious how they entertained any such propositions. The right honorable Chancellor of the Exchequer [Mr. Robinson] had protested against the idea of straining any point to the prejudice of the bank; he thought, however, that the bank had very little to complain of, when their stock, after all their past profits, was at 238."

The Chancellor of the Exchequer "deprecated the discussion, as leading to no practical result."

Mr. Alexander Baring "objected to it as premature and unnecessary."

Sir William Pulteney (in another debate.)—"The prejudices in favor of the present bank have proceeded from the long habit of considering it as a sort of pillar which nothing can shake. * * * The bank has been supported, and is still supported, by the fear and terror of which, by means of its monopoly, it has had the power to inspire. It is well known, that there is hardly an extensive trader, a manufacturer, or a banker, either in London, or at a distance from it, to whom the bank could not do a serious injury, and could often bring on even insolvency. * * * * * * I consider the power given by the monopoly to be of the nature of all other despotic power, which corrupts the despot as much as it corrupts the slave. * * * * * * It is in the nature of man, that a monopoly must necessarily be ill-conducted. * * * * * * Whatever language the [private] bankers may feel themselves obliged to hold, yet no one can believe that they have any satisfaction in being, and continuing, under a dominion which has proved so grievous and so disastrous. * * * * * * I can never believe that the merchants and bankers of this country will prove unwilling to emancipate themselves, if they can do it without risking the resentment of the bank. No man in France was heard to complain, openly, of the bastile while it existed. The merchants and bankers of this country have the blood of Englishmen, and will be happy to relieve themselves from a situation of perpetual terror, if they could do it consistently with a due regard to their own interest."

Here is authority added to reason—the force of a great example added to the weight of unanswerable reasons, in favor of early discussion; so that, I trust, I have effectually put aside that old and convenient objection to the "time;" that most flexible and accommodating objection, which applies to all seasons, and all subjects, and is just as available for cutting off a late debate, because it is too late, as it is for stifling an early one, because it is too early.

First: Mr. President, I object to the renewal of the charter of the Bank of the United States, because I look upon the bank as an institution too great and powerful to be tolerated in a Government of free and equal laws. Its power is that of a purse; a power more potent than that of the sword; and this power it possesses to a degree and extent that will enable the bank to draw to itself too much of the political power of this Union; and too much of the individual property of the citizens of these States. The money power of the bank is both direct and indirect.

[The VICE PRESIDENT here intimated to Mr. B. that he was out of order, and had not a right to go into the merits of the bank upon the motion which he had made. Mr. B. begged pardon of the Vice President, and respectfully insisted that he was in order, and had a right to proceed. He said he was proceeding upon the parliamentary rule of asking leave to bring in a joint resolution, and, in doing which, he had a right to state his reasons, which reasons constituted his speech; that the motion was debatable, and the whole Senate might answer him. The VICE PRESIDENT then directed Mr. B. to proceed.]

Mr. B. resumed. The direct power of the bank is now prodigious, and, in the event of the renewal of the charter, must speedily become boundless and uncontrollable. The bank is now authorized to own effects, lands inclusive, to the amount of fifty-five millions of dollars, and to issue notes to the amount of thirty-five millions more. This makes ninety millions; and, in addition to this vast sum, there is an opening for an unlimited increase: or, there is a dispensation in the charter to issue as many more notes as Congress, by law, may permit. This opens the door to boundless emissions; for what can be more unbounded than the will and pleasure of successive Congresses? The indirect power of the bank cannot be stated in figures; but it can be shown to be immense. In the first place, it has the keeping of the public moneys, now amounting to twenty-six millions per annum, (the Post Office Department included,) and the gratuitous use of the undrawn balances, large enough to constitute in themselves the capital of a great State bank. In the next place, its promissory notes are receivable, by law, in purchase of all property owned by the United States, and in payment of all debts due them; and this may increase its power to the amount of the annual revenue, by creating a demand for its notes to that amount. In the third place, it wears the name of the United States, and has the Federal Government for a partner; and this name, and this partnership, identify the credit of the bank with the credit of the Union. In the fourth place, it is armed with authority to disparage and discredit the notes of other banks, by excluding them from all payments to the United States; and this, added to all its other powers, direct and indirect, makes this institution the uncontrollable monarch of the moneyed system of the Union. To whom is all this power granted? To a company of private individuals, many of them foreigners, and the mass of them residing in a remote and narrow corner of the Union, unconnected by any sympathy with the fertile regions of the Great Valley, in which the natural power of this Union—the power of numbers—will be found to reside long before the renewed term of a second charter would expire. By whom is all this power to be exercised? By a directory of seven, (it may be,) governed by a majority of four, (it may be;) and none of these elected by the people, or responsible to them. Where is it to be exercised? At a single city, distant a thousand miles from some of the States, receiving the produce of none of them, (except one;) no interest in the welfare of any of them, (except one;) no commerce with the people; with branches in every State; and every branch subject to the secret and absolute orders of the supreme central head: thus constituting a system of centralism, hostile to the federative principle of our Union, encroaching upon the wealth and power of the States, and organized upon a principle to give the highest effect to the greatest power. This mass of power, thus concentrated, thus ramified, and thus directed, must necessarily become, under a prolonged existence, the absolute monopolist of American money, the sole manufacturer of paper currency, and the sole authority (for authority it will be) to which the Federal Government, the State Governments, the great cities, corporate bodies, merchants, traders, and every private citizen, must, of necessity, apply, for every loan which their exigencies may demand. "The rich ruleth the poor, and the borrower is the servant of the lender." Such are the words of holy writ; and if the authority of the Bible admitted of corroboration, the history of the world is at hand to give it. But I will not cite the history of the world, but one eminent example only, and that of a nature so high and commanding, as to include all others; and so near and recent, as to be directly applicable to our own situation. I speak of what happened in Great Britain, in the year 1795, when the Bank of England, by a brief and unceremonious letter to Mr. Pitt, such as a miser would write to a prodigal in a pinch, gave the proof of what a great moneyed power could do, and would do, to promote its own interest, in a crisis of national alarm and difficulty. I will read the letter. It is exceedingly short; for, after the com-

pliments are omitted, there are but three lines of it. It is, in fact, about as long as a sentence of execution, leaving out the prayer of the judge. It runs thus:

"It is the wish of the Court of Directors that the Chancellor of the Exchequer would settle his arrangements of finances for the present year, in such manner as not to depend upon any further assistance from them, beyond what is already agreed for."

Such were the words of this memorable note, sufficiently explicit and intelligible; but to appreciate it fully, we must know what was the condition of Great Britain at that time? Remember it was the year 1795, and the beginning of that year, than which a more portentous one never opened upon the British empire. The war with the French republic had been raging for two years; Spain had just declared war against Great Britain; Ireland was bursting into rebellion; the fleet in the Nore was in open mutiny; and a cry for the reform of abuses, and the reduction of taxes, resounded through the land. It was a season of alarm and consternation, and of imminent actual danger to Great Britain; and this was the moment which the bank selected to notify the minister that no more loans were to be expected! What was the effect of this notification? It was to paralyze the Government, and to subdue the minister to the purposes of the bank. From that day forth Mr. Pitt became the minister of the bank; and, before two years were out, he had succeeded in bringing all the Departments of Government, King, Lords, and Commons, and the Privy Council, to his own slavish condition. He stopped the specie payments of the bank, and made its notes the lawful currency of the land. In 1797 he obtained an order in council for this purpose; in the same year an act of Parliament to confirm the order for a month, and afterwards a series of acts to continue it for twenty years. This was the reign of the bank. For twenty years it was a dominant power in England, and, during that disastrous period, the public debt was increased about £400,000,000 sterling, equal nearly to two thousand millions of dollars, and that by paper loans from a bank which, according to its own declarations, had not a shilling to lend at the commencement of the period! I omit the rest. I say nothing of the general subjugation of the country banks, the rise in the price of food, the decline in wages, the increase of crimes and taxes, the multiplication of lords and beggars, and the frightful demoralization of society. I omit all this. I only seize the prominent figure in the picture, that of a Government arrested in the midst of war and danger by the veto of a moneyed corporation; and only permitted to go on upon condition of assuming the odium of stopping specie payments, and sustaining the promissory notes of an insolvent bank, as the lawful currency of the land. This single figure suffices to fix the character of the times; for when the Government becomes the "servant of the lender," the people themselves become its slaves. Cannot the Bank of the United States, if re-chartered, act in the same way? It certainly can, and just as certainly will, when time and opportunity shall serve and interest may prompt. It is to no purpose that gentlemen may come forward, and vaunt the character of the United States Bank, and proclaim it too just and merciful to oppress the State. I must be permitted to repudiate both the pledge and the praise. The security is insufficient and the encomium belongs to Constantinople. There were enough such in the British Parliament the year before, nay, the day before the bank stopped; yet their pledges and praises neither prevented the stoppage, nor made good the damage that ensued. There were gentlemen in our Congress to pledge themselves in 1810 for the then expiring bank, of which the one now existing is a second and deteriorated edition; and if their securityship had been accepted, and the old bank re-chartered, we should have seen this Government greeted with a note, about August, 1814—about the time the British were burning this capital—of the same tenor with the one received by the younger Pitt in the year 1795; for, it is incontestable, that that bank was owned by men who would have glorified in arresting the Government, and the war itself, for want of money. Happily, the wisdom and patriotism of Jefferson, under the providence of God, prevented that infamy and ruin, by preventing the renewal of the old bank charter.

Secondly. I object to the continuance of this bank, because its tendencies are dangerous and pernicious to the Government and to the people.

What are the tendencies of a great moneyed power, connected with the Government, and controlling its fiscal operations? Are they not dangerous to every interest, public and private—political as well as pecuniary? I say they are; and briefly enumerate the heads of each mischief.

1. Such a bank tends to subjugate the Government, as I have already shown in the history of what happened to the British minister in the year 1795.

2. It tends to collusions between the Government and the bank in the terms of the loans, as has been fully experienced in England in those frauds upon the people, and insults upon the understanding, called three per cent. loans, in which the Government, for about £50 borrowed, became liable to pay £100.

3. It tends to create public debt, by facilitating public loans and substituting unlimited supplies of paper, for limited supplies of coin. The British debt is born of the Bank of England. That bank was chartered in 1694, and was nothing more nor less in the beginning than an act of Parliament for the incorporation of a company of subscribers to a Government loan. The loan was £1,200,000; the interest £80,000; and the expenses of management £4,000.

And this is the birth and origin, the germ and nucleus of that debt, which is now £900,000,000, (the unfunded items included,) which bears an interest of £30,000,000, and cost £260,000 for annual management.

4. It tends to beget and prolong unnecessary wars, by furnishing the means of carrying them on without recurrence to the people. England is the ready example for this calamity. Her wars for the restoration of the Capet Bourbons were kept up by loans and subsidies created out of bank paper. The people of England had no interest in these wars, which cost them about £600,000,000 of debt in twenty-five years, in addition to the supplies raised within the year. The Kings she put back upon the French throne were not able to sit on it. Twice she put them on; twice they tumbled off in the mud; and all that now remains of so much sacrifice of life and money is, the debt, which is eternal, the taxes, which are intolerable, the pensions and titles of some warriors, and the keeping of the Capet Bourbons, who are returned upon their hands.

5. It tends to aggravate the inequality of fortunes; to make the rich richer, and the poor poorer; to multiply nabobs and paupers; and to deepen and widen the gulf which separates Dives from Lazarus. A great moneyed power is favorable to great capitalists; for it is the principle of money to favor money. It is unfavorable to small capitalists; for it is the principle of money to eschew the needy and unfortunate. It is injurious to the laboring classes; because they receive no favors, and have the price of the property they wish to acquire raised to the paper maximum, while wages remain at the silver minimum.

6. It tends to make and to break fortunes, by the flux and reflux of paper. Profuse issues, and sudden contractions, perform this operation, which can be repeated, like planetary and pestilential visitations, in every cycle of so many years; at every periodical return, transferring millions from the actual possessors of property to the Neptunes who preside over the flux and reflux of paper. The last operation of this kind performed by the Bank of England, about five years ago, was described by Mr. Alexander Baring, in the House of Commons, in terms which are entitled to the knowledge and remembrance of American citizens. I will read his description, which is brief but impressive. After describing the profuse issues of 1823–'24, he painted the re-action in the following terms:

"They, therefore, all at once, gave a sudden jerk to the horse on whose neck they had before suffered the reins to hang loose. They contracted their issues to a considerable extent. The change was at once felt throughout the country. A few days before that, no one knew what to do with his money: now, no one knew where to get it. * * * * * The London bankers found it necessary to follow the same course towards their country correspondents, and these again towards their customers, and each individual towards his debtor. The consequence was obvious, in the late panic. Every one desirous to obtain what was due to him, ran to his banker, or to any other on whom he had a claim; and even those who had no immediate use for their money, took it back, and let it lie unemployed in their pockets, thinking it unsafe in others' hands. The effect of this alarm was, that houses which were weak went immediately, Then went second-rate houses; and, lastly, houses which were solvent went, because their securities were unavailable. The daily calls to which each individual was subject put it out of his power to assist his neighbor. Men were known to seek for assistance, and that, too, without finding it, who, on examination of their affairs, were proved to be worth 200,000 pounds,—men, too, who held themselves so secure, that, if asked six months before whether they could contemplate such an event, they would have said it would be impossible, unless the sky should fall, or some other event equally improbable should occur."

This is what was done in England five years ago; it is what may be done here in every five years to come, if the bank charter is renewed. Sole dispenser of money, it cannot omit the oldest and most obvious means of amassing wealth by the flux and reflux of paper. The game will be in its own hands, and the only answer to be given is that to which I have alluded: "The Sultan is too just and merciful to abuse his power."

Thirdly. I object to the renewal of the charter, on account of the exclusive privileges, and anti-republican monopoly, which it gives to the stockholders. It gives, and that by an act of Congress, to a company of individuals, the exclusive legal privileges:

1. To carry on the trade of banking upon the revenue and credit, and in the name, of the United States of America.

2. To pay the revenues of the Union in their own promissory notes.

3. To hold the moneys of the United States in deposit, without making compensation for the undrawn balances.

4. To discredit and disparage the notes of other banks, by excluding them from the collection of the federal revenue.

5. To hold real estate, receive rents, and retain a body of tenantry.

6. To deal in pawns, merchandise, and bills of exchange.

7. To establish branches in the States without their consent.

8. To be exempt from liability on the failure of the bank.

9. To have the United States for a partner.

10. To have foreigners for partners.

11. To be exempt from the regular administration of justice for the violations of their charter.

12. To have all these exclusive privileges secured to them as a monopoly, in a pledge of the public faith not to grant the like privileges to any other company.

These are the privileges, and this the monopoly, of the bank. Now, let us examine them,

and ascertain their effect and bearing. Let us contemplate the magnitude of the power which they create; and ascertain the compatibility of this power with the safety of this republican Government, and the rights and interests of its free and equal constituents.

1. The name, the credit, and the revenues of the United States, are given up to the use of this company, and constitute in themselves an immense capital to bank upon.—The name of the United States, like that of the King, is a tower of strength; and this strong tower is now an outwork to defend the citadel of a moneyed corporation. The credit of the Union is incalculable; and, of this credit, as going with the name, and being in partnership with the United States, the same corporation now has possession. The revenues of the Union are twenty-six millions of dollars, including the Post Office; and all this is so much capital in the hands of the bank, because the revenue is received by it, and is payable in its promissory notes.

2. To pay the revenues of the United States in their own notes, until Congress, by law, shall otherwise direct.—This is a part of the charter, incredible and extraordinary as it may appear. The promissory notes of the bank are to be received in payment of every thing the United States may have to sell—in discharge of every debt due to her, until Congress, by law, shall otherwise direct; so that, if this bank, like its prototype in England, should stop payment, its promissory notes would still be receivable at every custom house, land office, post office, and by every collector of public moneys, throughout the Union, until Congress shall meet, pass a repealing law, and promulgate the repeal. Other banks depend upon their credit for the receivability of their notes; but this favored institution has law on its side, and a chartered right to compel the reception of its paper by the Federal Government. The immediate consequence of this extraordinary privilege is, that the United States becomes virtually bound to stand security for the bank, as much so as if she had signed a bond to that effect; and must stand forward to sustain the institution in all emergencies, in order to save her own revenue. This is what has already happened, some ten years ago, in the early progress of the bank, and when the immense aid given it by the Federal Government enabled it to survive the crisis of its own overwhelming mismanagement.

3. To hold the moneys of the United States in deposit, without making compensation for the use of the undrawn balances.—This is a right which I deny; but, as the bank claims it, and, what is more material, enjoys it; and as the people of the United States have suffered to a vast extent in consequence of this claim and enjoyment, I shall not hesitate to set it down to the account of the bank. Let us then examine the value of this privilege and its effect upon the interest of the community: and, in the first place, let us have a full and accurate view of the amount of these undrawn balances from the establishment of the bank to the present day. Here it is! Look! Read!

[Here Mr. B. exhibited a table of the quarterly amounts of public money in the bank, averaging about four millions of dollars, and equivalent to a permanent deposit, or loan without interest to that amount.]

See, Mr. President, what masses of money, and always on hand. The paper is covered all over with millions: and yet, for all these vast sums, no interest is allowed; no compensation is made to the United States. The Bank of England, for the undrawn balances of the public money, has made an equitable compensation to the British Government; namely, a permanent loan of half a million sterling, and a temporary loan of three millions for twenty years, without interest. Yet when I moved for a like compensation to the United States, the proposition was utterly rejected by the Finance Committee, and treated as an attempt to violate the charter of the bank. At the same time it is incontestable, that the United States have been borrowing these undrawn balances from the bank, and paying an interest upon their own money. I think we can identify one of these loans. Let us try. In May, 1824, Congress authorized a loan of five millions of dollars to pay the awards under the treaty with Spain, commonly called the Florida treaty. The Bank of the United States took that loan, and paid the money for the United States in January and March, 1825. In looking over the statement of undrawn balances, it will be seen that they amounted to near four millions at the end of the first, and six millions at the end of the second quarter of that year. The inference is irresistible, and I leave every Senator to make it; only adding, that we have paid $1,469,375 in interest upon that loan, either to the bank or its transferees. This is a strong case, but I have a stronger one. It is known to everybody that the United States subscribed seven millions to the capital stock of the bank, for which she gave her stock note, bearing an interest of five per cent. per annum. I have a statement from the Register of the Treasury, from which it appears that, up to the 30th day of June last, the United States had paid four millions seven hundred and twenty-five thousand dollars in interest upon that note; when it is proved by the statement of balances exhibited, that the United States, for the whole period in which that interest was accruing, had the half, or the whole, and once the double, of these seven millions in the hands of the bank. This is a stronger case than that of the five million loan, but it is not the strongest. The strongest case is this. In the year 1817, when the bank went into operation, the United States owed, among other debts, a sum of about fourteen millions and three-quarters, bearing an interest of three per cent. In the same year, the Commissioners of the Sinking Fund were authorized by an act of Congress to purchase

that stock at sixty-five per cent., which was then its market price. Under this authority, the amount of about one million and a half was purchased; the remainder, amounting to about thirteen millions and a quarter, has continued unpurchased to this day; and, after costing the United States about six millions in interest since 1817, the stock has risen about four millions in value; that is to say, from sixty-five to nearly ninety-five. Now, here is a clear loss of ten millions of dollars to the United States. In 1817, she could have paid off thirteen millions and a quarter of debt, with eight millions and a half of dollars; now, after paying six millions of interest, it would require twelve millions and a half to pay off the same debt. By referring to the statement of undrawn balances, it will be seen that the United States had, during the whole year 1817, an average sum of above ten millions of dollars in the hands of the bank, being a million and a half more than enough to have bought in the whole of the three per cent. stock. The question, therefore, naturally comes up, why was it not applied to the redemption of these thirteen millions and a quarter, according to the authority contained in the act of Congress of that year? Certainly the bank needed the money; for it was just getting into operation, and was as hard run to escape bankruptcy about that time, as any bank that ever was saved from the brink of destruction. This is the largest injury which we have sustained, on account of accommodating the bank with the gratuitous use of these vast deposits. But, to show myself impartial, I will now state the smallest case of injury that has come within my knowledge: It is the case of the *bonus* of fifteen hundred thousand dollars which the bank was to pay to the United States, in three equal instalments, for the purchase of its charter. Nominally, this *bonus* has been paid, but out of what moneys? Certainly out of our own; for the statement shows our money was there, and further, shows that it is still there; for, on the 30th day of June last, which is the latest return, there was still $2,550,664 in the hands of the bank, which is above $750,000 more than the amount of the *bonus*.

One word more upon the subject of these balances. It is now two years since I made an effort to repeal the 4th section of the Sinking Fund act of 1817; a section which was intended to limit the amount of surplus money which might be kept in the Treasury, to two millions of dollars; but by the power of construction, was made to authorize the keeping of two millions in addition to the surplus. I wished to repeal this section, which had thus been construed into the reverse of its intention, and to revive the first section of the Sinking Fund act of 1790, which directed the whole of the surplus on hand to be applied, at the end of each year, to the payment of the public debt. My argument was this: that there was no necessity to keep any surplus; that the revenue, coming in as fast as it went out, was like a perennial fountain, which you might drain to the last drop, and not exhaust; for the place of the last drop would be supplied the instant it was out. And I supported this reasoning by a reference to the annual Treasury reports, which always exhibit a surplus of four or five millions; and which were equally in the Treasury the whole year round, as on the last day of every year. This was the argument, which, in fact, availed nothing; but now I have mathematical proof of the truth of my position. Look at this statement of balances; look for the year 1819, and you will find but three hundred thousand dollars on hand for that year; look still lower for 1821, and you will find this balance but one hundred and eighty-two thousand dollars. And what was the consequence? Did the Government stop? Did the wheels of the State chariot cease to turn round in those years for want of treasury oil? Not at all. Every thing went on as well as before; the operations of the Treasury were as perfect and regular in those two years of insignificant balances, as in 1817 and 1818, when five and ten millions were on hand. This is proof; this is demonstration: it is the indubitable evidence of the senses which concludes argument, and dispels uncertainty; and, as my proposal for the repeal of the 4th section of the Sinking Fund act of 1817 was enacted into a law at the last session of Congress, upon the recommendation of the Secretary of the Treasury, a vigilant and exemplary officer, I trust that the repeal will be acted upon, and that the bank platter will be wiped as clean of federal money in 1831, as it was in 1821. Such clean-taking from that dish, will allow two or three millions more to go to the reduction of the public debt; and there can be no danger in taking the last dollar, as reason and experience both prove. But, to quiet every apprehension on this point, to silence the last suggestion of a possibility of any temporary deficit, I recur to a provision contained in two different clauses in the bank charter, copied from an amendment in the charter of the Bank of England, and expressly made, at the instance of the ministry, to meet the contingency of a temporary deficiency in the annual revenue. The English provision is this: that the Government may borrow of the bank half a million sterling, at any time, without a special act of parliament to authorize it. The provision in our charter is the same, with the single substitution of dollars for pounds. It is, in words and intention, a standing authority to borrow that limited sum, for the obvious purpose of preventing a constant keeping of a sum of money in hand as a reserve, to meet contingencies which hardly ever occur. This contingent authority to effect a small loan, has often been used in England—in the United States, never; possibly, because there has been no occasion for it; probably, because the clause was copied mechanically from the English charter, and without the perception of its practical bearing. Be this as it may, it is certainly a

wise and prudent provision, such as all Governments should, at all times, be clothed with.

If any senator thinks that I have exaggerated the injury suffered by the United States, on account of the uncompensated masses of public money in the hands of the bank, I am now going to convince him that he is wrong. I am going to prove to him that I have understated the case; that I have purposely kept back a large part of it; and that justice requires a further development. The fact is, that there are two different deposits of public money in the bank; one in the name of the Treasurer of the United States, the other in the name of disbursing officers. The annual average of the former has been about three and a half millions of dollars, and of this I have said not a word. But the essential character of both deposits is the same; they are both the property of the United States; both permanent; both available as so much capital to the bank; and both uncompensated. Here is the statement of the monthly amount of these secondary deposits, as I find them on the bank returns; and to it I appeal for the verification of what I allege:

	1825	1826	1830
January,	$1,543,618	$1,393,805	$855,691
February,	1,888,764	1,434,800	1,562,841
March,	2,185,930	2,250,113	1,554,969
April,	1,489,934	1,638,146	1,652,841
May,	1,428,025	1,637,519	1,323,661
June,	1,532,258	2,301,587	1,346,206
July,	1,264,758	1,678,274	1,129,990
August,	1,575,492	2,032,684	875,459
September,	1,585,401	2,593,606	1,346,206
October,	2,042,345	1,753,621	1,334,081
November,	1,558,873	1,683,717	1,194,682
December,	1,576,997	2,112,097	1,616,656

I have not ascertained the average of these deposits since 1817, but presume it may equal the amount of that *bonus* of one million five hundred thousand dollars for which we sold the charter, and which the Finance Committee of the Senate compliments the bank for paying in three, instead of seventeen annual instalments; and shows how much interest they lost by doing so. Certainly this was a disadvantage to the bank. It would have been better for it to have dribbled out to us one hundred thousand dollars, instead of five hundred thousand dollars of our own money, at a time. But there are three considerations which should prevent her from complaining: first, that it was the bargain to pay in three years; secondly, that we furnished the money; thirdly, that we kept up the amount in her hand. Finally, these monthly returns show that the overdrawings, for permitting which the bank has been so much lauded, were overdrawings in name, not in fact; the amount of the money being only transferred to another deposit, and the money itself remaining in the hands of the bank.

Mr. President, it does seem to me that there is something ominous to the bank in this contest for compensation on the undrawn balances. It is the very way in which the struggle began in the British Parliament which has ended in the overthrow of the Bank of England. It is the way in which the struggle is beginning here. My resolutions of two and three years ago are the causes of the speech which you now hear; and, as I have reason to believe, some others more worthy of your hearing, which will come at the proper time. The question for compensation for balances is now fixing itself up here, as in England, with the question of renewing the charter; and the two, acting together, will fall with combined weight upon the public mind, and certainly eventuate here as they did there.

4. To discredit and disparage the notes of all other banks, by excluding them from the collection of the federal revenue.—This results from the collection—no, not the collection, but the receipt of the revenue having been committed to the bank, and along with it the virtual execution of the joint resolution of 1816, to regulate the collection of the federal revenue. The execution of that resolution was intended to be vested in the Secretary of the Treasury—a disinterested arbiter between rival banks; but it may be considered as virtually devolved upon the Bank of the United States, and powerfully increases the capacity of that institution to destroy, or subjugate, all other banks. The notes of the State banks excluded from revenue payments, are discredited and disparaged, and fall into the hands of brokers at all places where they are not issued and payable. They cease to insulate at all the points to which the exclusion extends. I am informed that the notes of the banks south of the Potomac and Ohio, even those of the lower Mississippi, are generally refused at the United States Branch Bank in St. Louis, and, in consequence, are expelled from circulation in Missouri and Illinois, and the neighboring districts. This exclusion of the southern notes from the northwest quarter of the Union, is injurious to both parties, as our travellers and emigrants chiefly come from the South, and the whole of our trade goes there to find a cash market. The exclusion, as I am told, (for I have not looked into the matter myself,) is general, and extends to the banks in Virginia, the two Carolinas, Georgia, Alabama, Mississippi, and Louisiana. If this be the fact, the joint resolution of 1816 is violated; for, under the terms of that resolution, there are several banks in each of the States mentioned whose notes are receivable in the collection of federal revenue; that is to say, specie-paying banks whose notes are payable, and paid, in specie, on demand. Yet, in consequence of exclusion from the United States Branch Bank, they are excluded from all the land offices, eleven in number, which deposit in that branch; and, being excluded from the land offices, they cease to be current money among the people. If a traveller or emigrant brings these notes to the country, or receives them in remittance; if a trader accepts them in exchange for produce, they are

"*shaved*" out of their hands, and sent out of the country. This is a pecuniary injury done to the northwest; it may be more—it may be a political injury also; for it contributes to break the communication between the two quarters of the Union, and encourages the idea that nothing good can come from the South—not even money! This power to disparage the notes of all other banks, is a power to injure them; and, added to all the other privileges of the Bank of the United States, is a power to destroy them! If any one doubts this assertion, let him read the answers of the President of the Bank to the questions put to him by the Chairman of the Finance Committee. These answers are appended to the committee's report of the last session in favor of the bank, and expressly declare the capacity of the federal bank to destroy the State banks. The worthy chairman (Mr. SMITH, of Md.) puts this question: "Has the bank at any time oppressed any of the State banks?" The President (Mr. Biddle) answers, as the whole world would answer to a question of oppression, that it never had; and this response was as much as the interrogatory required. But it did not content the President of the bank; he chose to go further, and to do honor to the institution over which he presided, by showing that it was as just and generous as it was rich and powerful. He, therefore, adds the following words, for which, as a seeker after evidence, to show the alarming and dangerous character of the bank, I return him my unfeigned thanks: "There are very few banks which might not have been destroyed by an exertion of the power of the bank."

This is enough! proof enough! not for me alone, but for all who are unwilling to see a moneyed domination set up—a moneyed oligarchy established in this land, and the entire Union subjected to its sovereign will. The power to destroy all other banks is admitted and declared; the inclination to do so is known to all rational beings to reside with the power! Policy may restrain the destroying faculties for the present; but they exist; and will come forth when interest prompts and policy permits. They have been exercised; and the general prostration of the Southern and Western banks attests the fact. They will be exercised, (the charter being renewed,) and the remaining State banks will be swept with the besom of destruction. Not that all will have their signs knocked down, and their doors closed up. Far worse than that to many of them. Subjugation, in preference to destruction, will be the fate of many. Every planet must have its satellites; every tyranny must have its instruments; every knight is followed by his squire; even the king of beasts, the royal quadruped, whose roar subdues the forest, must have a small subservient animal to spring his prey. Just so of this imperial bank, when installed anew in its formidable and lasting power. The State banks spared by the sword, will be passed under the yoke. They will become subordinate parts in the great machine. Their place, in the scale of subordination will be one degree below the rank of the legitimate branches; their business, to perform the work which it would be too disreputable for the legitimate branches to perform. This will be the fate of the State banks which are allowed to keep up their signs, and to set open their doors; and thus the entire moneyed power of the Union will fall into the hands of one single institution, whose inexorable and invisible mandates, emanating from a centre, would pervade the Union, giving or withholding money according to its own sovereign will and absolute pleasure. To a favored State, to an individual, or a class of individuals, favored by the central power, the golden stream of Pactolus would flow direct. To all such the munificent mandates of the High Directory would come, as the fabled god made his terrestrial visit of love and desire, enveloped in a shower of gold. But to others –to those not favored—and to those hated—the mandates of this same directory would be as "the planetary plague which hangs its poison in the sick air;" death to them! death to all who minister to their wants! What a state of things! What a condition for a confederacy of States! What grounds for alarm and terrible apprehension, when, in a confederacy of such vast extent, so many independent States, so many rival commercial cities, so much sectional jealousy, such violent political parties, such fierce contests for power, there should be but one moneyed tribunal before which all the rival and contending elements must appear! but one single dispenser of money, to which every citizen, every trader, every merchant, every manufacturer, every planter, every corporation, every city, every State, and the Federal Government itself, must apply, in every emergency, for the most indispensable loan! and this, in the face of the fact, that, in every contest for human rights, the great moneyed institutions of the world have uniformly been found on the side of kings and nobles, against the lives and liberties of the people.

5. To hold real estate, receive rents, and retain a body of tenantry.—This privilege is hostile to the nature of our republican Government, and inconsistent with the nature and design of a banking institution. Republics want freeholders, not landlords and tenants; and except the corporators in this bank, and in the British East India Company, there is not an incorporated body of landlords in any country upon the face of the earth whose laws emanate from a legislative body. Banks are instituted to promote trade and industry, and to aid the Government and its citizens with loans of money. The whole argument in favor of banking—every argument in favor of this bank—rests upon that idea. No one, when this charter was granted, presumed to speak in favor of incorporating a society of landlords, especially foreign landlords, to buy lands, build houses, rent tenements, and

retain tenanty. Loans of money was the object in view, and the purchase of real estate is incompatible with that object. Instead of remaining bankers, the corporators may turn land speculators: instead of having money to lend, they may turn you out tenants to vote. To an application for a loan, they may answer, and answer truly, that they have no money on hand; and the reason may be, that they have laid it out in lands. This seems to be the case at present. A committee of the Legislature of Pennsylvania has just applied for a loan; the President of the bank, nothing loth to make a loan to that great State, for twenty years longer than the charter has to exist, expresses his regret that he cannot lend but a limited and inadequate sum. The funds of the institution, he says, will not permit it to advance more than eight millions of dollars. And why? because it has invested three millions in real estate! To this power to hold real estate, is superadded the means to acquire it. The bank is now the greatest moneyed power in the Union; in the event of the renewal of its charter, it will soon be the sole one. Sole dispenser of money, it will soon be the chief owner of property. To unlimited means of acquisition, would be united perpetuity of tenure; for a corporation never dies, and is free from the operation of the laws which govern the descent and distribution of real estate in the hands of individuals. The limitations in the charter are vain and illusory. They insult the understanding, and mock the credulity of foolish believers. The bank is first limited to such acquisitions of real estate as are necessary to its own accommodation; then comes a proviso to undo the limitation, so far as it concerns purchases upon its own mortgages and executions! This is the limitation upon the capacity of such an institution to acquire real estate. As if it had any thing to do but to make loans upon mortgages, and push executions upon judgments! Having all the money, it would be the sole lender; mortgages being the road to loans, all borrowers must travel that road. When birds enough are in the net, the fowler draws his string, and the heads are wrung off. So when mortgages enough are taken, the loans are called in; discounts cease; curtailments are made; failures to pay ensue; writs issue; judgments and executions follow; all the mortgaged premises are for sale at once; and the attorney of the bank appears at the elbow of the marshal, sole bidder, and sole purchaser.

What is the legal effect of this vast capacity to acquire, and this legal power to retain, real estate? Is it not the creation of a new species of mortmain? And of a kind more odious and dangerous than the mortmain of the church which it baffled the English Parliament so many ages to abolish. The mortmain of the church was a power in an ecclesiastical corporation to hold real estate, independent of the laws of distribution and descent: the mortmain of the bank is a power in a lay corporation to do the same thing. The evil of the two tenures is identical; the difference between the two corporations is no more than the difference between parsons and money changers; the capacity to do mischief incomparably the greatest on the part of the lay corporators. The church could only operate upon the few who were thinking of the other world; the bank, upon all who are immersed in the business or the pleasures of this. The means of the church were nothing but prayers; the means of the bank is money! The church received what it could beg from dying sinners; the bank may extort what it pleases from the whole living generation of the just and unjust. Such is the parallel between the mortmain of the two corporations. They both end in monopoly of estates, and perpetuity of succession; and the bank is the greatest monopolizer of the two. Monopolies and perpetual succession are the bane of republics. Our ancestors took care to provide against them, by abolishing entails and primogeniture. Even the glebes of the church, lean and few as they were in most of the States, fell under the republican principle of limited tenures. All the States abolished the anti-republican tenures; but Congress re-establishes them, and in a manner more dangerous and offensive than before the revolution. They are now given, not generally, but to few; not to natives only, but to foreigners also; for foreigners are large owners of this bank. And thus, the principles of the revolution sink before the privileges of an incorporated company. The laws of the States fall before the mandates of a central directory in Philadelphia. Foreigners become the landlords of free born Americans; and the young and flourishing towns of the United States are verging to the fate of the family boroughs which belong to the great aristocracy of England.

Let no one say the bank will not avail itself of its capacity to amass real estate. The fact is, it has already done so. I know towns, yea, cities, and could name them, if it might not seem invidious from this elevated theatre to make a public reference to their misfortunes, in which this bank already appears as a dominant and engrossing proprietor. I have been in places where the answers to inquiries for the owners of the most valuable tenements, would remind you of the answers given by the Egyptians to similar questions from the French officers, on their march to Cairo. You recollect, no doubt, sir, the dialogue to which I allude: "Who owns that palace?" "The Mameluke;" "Who this country house?" "The Mameluke;" "These gardens?" "The Mameluke;" "That field covered with rice?" "The Mameluke."—And thus have I been answered, in the towns and cities referred to, with the single exception of the name of the Bank of the United States substituted for that of the military scourge of Egypt. If this is done under the first charter, what may not be expected under the second? If this is done while the bank is on its best

behavior, what may she not do when freed from all restraint and delivered up to the boundless cupidity and remorseless exactions of a moneyed corporation?

6. To deal in pawns, merchandise, and bills of exchange.—I hope the Senate will not require me to read dry passages from the charter to prove what I say. I know I speak a thing nearly incredible when I allege that this bank in addition to all its other attributes, is an incorporated company of pawnbrokers! The allegation staggers belief, but a reference to the charter will dispel incredulity. The charter, in the first part, forbids a traffic in merchandise; in the after part, permits it. For truly this instrument seems to have been framed upon the principles of contraries; one principle making limitations, and the other following after with provisoes to undo them. Thus is it with lands, as I have just shown; thus is it with merchandise, as I now show. The bank is forbidden to deal in merchandise—proviso, unless in the case of goods pledged for money lent, and not redeemed to the day; and, proviso, again, unless for goods which shall be the proceeds of its lands. With the help of these two provisoes it is clear that the limitation is undone; it is clear that the bank is at liberty to act the pawnbroker and merchant, to any extent that it pleases. It may say to all the merchants who want loans, Pledge your stores, gentlemen! They must do it, or do worse; and, if any accident prevents redemption on the day, the pawn is forfeited, and the bank takes possession. On the other hand, it may lay out its rents for goods; it may sell its real estate, now worth three millions of dollars, for goods. Thus the bank is an incorporated company of pawnbrokers and merchants, as well as an incorporation of landlords and land-speculators; and this derogatory privilege, like the others, is copied from the old Bank of England charter of 1694. Bills of exchange are also subjected to the traffic of this bank. It is a traffic unconnected with the trade of banking, dangerous for a great bank to hold, and now operating most injuriously in the South and West. It is the process which drains these quarters of the Union of their gold and silver, and stifles the growth of a fair commerce in the products of the country. The merchants, to make remittances, buy bills of exchange from the branch banks, instead of buying produce from the farmers. The bills are paid for in gold and silver; and, eventually, the gold and silver are sent to the mother bank, or to the branches in the Eastern cities, either to meet these bills, or to replenish their coffers, and to furnish vast loans to favorite States or individuals. The bills sell cheap, say a fraction of one per cent.; they are, therefore, a good remittance to the merchant. To the bank the operation is doubly good; for even the half of one per cent. on bills of exchange is a great profit to the institution which monopolizes that business, while the collection and delivery to the branches of all the hard money in the country is a still more considerable advantage. Under this system, the best of the Western banks—I do not speak of those which had no foundations, and sunk under the weight of neighborhood opinion—but those which deserved favor and confidence, sunk ten years ago. Under this system, the entire West is now undergoing a silent, general, and invisible drain of its hard money; and, if not quickly arrested, these States will soon be, as far as the precious metals are concerned, no more than the empty skin of an immolated victim.

7. To establish branches in the different States without their consent, and in defiance of their resistance.—No one can deny the degrading and injurious tendency of this privilege. It derogates from the sovereignty of a State; tramples upon her laws; injures her revenue and commerce; lays open her Government to the attacks of centralism; impairs the property of her citizens; and fastens a vampire on her bosom to suck out her gold and silver. 1. It derogates from her sovereignty, because the central institution may impose its intrusive branches upon the State without her consent, and in defiance of her resistance. This has already been done. The State of Alabama, but four years ago, by a resolve of her Legislature, remonstated against the intrusion of a branch upon her. She protested against the favor. Was the will of the State respected? On the contrary, was not a branch instantaneously forced upon her, as if, by the suddenness of the action, to make a striking and conspicuous display of the omnipotence of the bank, and the nullity of the State? 2. It tramples upon her laws; because, according to the decision of the Supreme Court, the bank and all its branches are wholly independent of State legislation; and it tramples on them again, because it authorizes foreigners to hold lands and tenements in every State, contrary to the laws of many of them; and because it admits of the *mortmain* tenure, which is condemned by all the republican States in the Union. 3. It injures her revenue, because the bank stock, under the decision of the Supreme Court, is not liable to taxation. And thus, foreigners, and non-resident Americans, who monopolize the money of the State, who hold its best lands and town lots, who meddle in its elections, and suck out its gold and silver, and perform no military duty, are exempted from paying taxes, in proportion to their wealth, for the support of the State whose laws they trample upon, and whose benefits they usurp. 4. It subjects the State to the dangerous manœuvres and intrigues of centralism, by means of the tenants, debtors, bank officers, and bank money, which the central directory retain in the State, and may embody and direct against it in its elections, and in its legislative and judicial proceedings. 5. It tends to impair the property of the citizens, and, in some instances, that of the States, by destroying the State banks in which they have invested their money.

6. It is injurious to the commerce of the States, (I speak of the Western States,) by substituting a trade in bills of exchange, for a trade in the products of the country. 7. It fastens a vampire on the bosom of the State, to suck away its gold and silver, and to co-operate with the course of trade of federal legislation, and of exchange, in draining the South and West of all their hard money. The Southern States, with their thirty millions of annual exports in cotton, rice, and tobacco, and the Western States, with their twelve millions of provisions and tobacco exported from New Orleans, and five millions consumed in the South, and on the lower Mississippi,—that is to say, with three-fifths of the marketable productions of the Union, are not able to sustain thirty specie-paying banks; while the minority of the States north of the Potomac, without any of the great staples for export, have above four hundred of such banks. These States, without rice, without cotton, without tobacco, without sugar, and with less flour and provisions, to export, are saturated with gold and silver, while the southern and western States, with all the real sources of wealth, are in a state of the utmost destitution. For this calamitous reversal of the natural order of things, the Bank of the United States stands forth pre-eminently culpable. Yes, it is pre-eminently culpable! and a statement in the National Intelligencer of this morning, (a paper which would overstate no fact to the prejudice of the bank,) cites and proclaims the fact which proves this culpability. It dwells, and exults, on the quantity of gold and silver in the vaults of the United States Bank. It declares that institution to be "overburdened" with gold and silver; and well may it be so overburthened, since it has lifted the load entirely from the South and West. It calls these metals "a drug" in the hands of the bank; that is to say, an article for which no purchaser can be found. Let this "drug," like the treasures of the dethroned Dey of Algiers, be released from the dominion of its keeper; let a part go back to the South and West, and the bank will no longer complain of repletion, nor they of depletion.

8. Exemption of the stockholders from individual liability on the failure of the bank.—This privilege derogates from the common law, is contrary to the principle of partnerships, and injurious to the rights of the community. It is a peculiar privilege granted by law to these corporators, and exempting them from liability except in their corporate capacity, and to the amount of the assets of the corporation. Unhappily, these assets are never *assez*, that is to say, enough, when occasion comes for recurring to them. When a bank fails, its assets are always less than its debits; so that responsibility fails the instant that liability accrues. Let no one say that the Bank of the United States is too great to fail. One greater than it, and its prototype, has failed, and that in our own day, and for twenty years at a time: the Bank of England failed in 1797, and the Bank of the United States was on the point of failing in 1819. The same cause, namely, stockjobbing and overtrading, carried both to the brink of destruction; the same means saved both, namely, the name, the credit, and the helping hand of the Governments which protected them. Yes, the Bank of the United States may fail; and its stockholders live in splendor upon the princely estates acquired with its notes, while the industrious classes, who hold these notes, will be unable to receive a shilling for them. This is unjust. It is a vice in the charter. The true principle in banking requires each stockholder to be liable to the amount of his shares; and subjects him to the summary action of every holder on the failure of the institution, till he has paid up the amount of his subscription. This is the true principle. It has prevailed in Scotland for the last century, and no such thing as a broken bank has been known there in all that time.

9. To have the United States for a partner.—Sir, there is one consequence, one result of all partnerships between a Government and individuals, which should of itself, and in a mere mercantile point of view, condemn this association on the part of the Federal Government. It is the principle which puts the strong partner forward to bear the burthen whenever the concern is in danger. The weaker members flock to the strong partner at the approach of the storm, and the necessity of venturing more to save what he has already staked, leaves him no alternative. He becomes the Atlas of the firm, and bears all upon his own shoulders. This is the principle: what is the fact? Why, that the United States has already been compelled to sustain the federal bank; to prop it with her revenues and its credit in the trials and crisis of its early administration. I pass over other instances of the damage suffered by the United States on account of this partnership; the immense standing deposits for which we receive no compensation; the loan of five millions of our own money, for which we have paid a million and a half in interest; the five per cent. stock note, on which we have paid our partners four million seven hundred and twenty-five thousand dollars in interest; the loss of ten millions on the three per cent. stock, and the ridiculous catastrophe of the miserable *bonus*, which has been paid to us with a fraction of our own money: I pass over all this, and come to the point of a direct loss, as a partner, in the dividends upon the stock itself. Upon this naked point of profit and loss, to be decided by a rule in arithmetic, we have sustained a direct and heavy loss. The stock held by the United States, as everybody knows, was subscribed not paid. It was a stock note, deposited for seven millions of dollars, bearing an interest of five per cent. The inducement to this subscription was the seductive conception that, by paying five per cent. on its note the United States would clear four

or five per cent. in getting a dividend of eight or ten. This was the inducement; now for the realization of this fine conception. Let us see it. Here it is: an official return from the Register of the Treasury of interest paid, and of dividends received. The account stands thus:

Interest paid by the United States,	$4,725,000
Dividends received by the United States,	4,629,426
Loss to the United States,	95,574

Disadvantageous as this partnership must be to the United States in a moneyed point of view, there is a far more grave and serious aspect under which to view it. It is the political aspect, resulting from the union between the bank and the Government. This union has been tried in England, and has been found there to be just as disastrous a conjunction as the union of church and State. It is the conjunction of the lender and the borrower, and holy writ has told us which of these categories will be master of the other. But suppose they agree to drop rivalry, and unite their resources. Suppose they combine, and make a push for political power: how great is the mischief which they may not accomplish! But, on this head, I wish to use the language of one of the brightest patriots of Great Britain; one who has shown himself, in these modern days, to be the worthy successor of those old iron barons whose patriotism commanded the unpurchaseable eulogium of the elder Pitt. I speak of Sir William Pulteney, and his speech against the Bank of England, in 1797.

THE SPEECH—*Extract.*—"I have said enough to show that Government has been rendered dependent on the bank, and more particularly so in the time of war; and though the bank has not yet fallen into the hands of ambitious men, yet it is evident that it might, in such hands, assume a power sufficient to control and overawe, not only the ministers, but king, lords, and commons. * * * * As the bank has thus become dangerous to Government, it might, on the other hand, by uniting with an ambitious minister, become the means of establishing a fourth estate, sufficient to involve this nation in irretrievable slavery, and ought, therefore, to be dreaded as much as a certain East India bill was justly dreaded, at a period not very remote. I will not say that the present minister, (the younger Pitt,) by endeavoring, at this crisis, to take the Bank of England under his protection, can have any view to make use, hereafter, of that engine to perpetuate his own power, and to enable him to domineer over our constitution: if that could be supposed, it would only show that men can entertain a very different train of ideas, when endeavoring to overset a rival, from what occurs to them when intending to support and fix themselves. My object is to secure the country against all risk either from the bank as opposed to Government, or as the engine of ambitious men."

And this is my object also. I wish to secure the Union from all chance of harm from this bank. I wish to provide against its friendship, as well as its enmity—against all danger from its hug, as well as from its blow. I wish to provide against all risk, and every hazard; for, if this risk and hazard were too great to be encountered by King, Lords, and Commons, in Great Britain, they must certainly be too great to be encountered by the people of the United States, who are but commons alone.

10. To have foreigners for partners.—This, Mr. President, will be a strange story to be told in the West. The downright and upright people of that unsophisticated region believe that words mean what they signify, and that "the Bank of the United States" is the Bank of the United States. How great then must be their astonishment to learn that this belief is a false conception, and that this bank (its whole name to the contrary notwithstanding) is just as much the bank of foreigners as it is of the Federal Government. Here I would like to have the proof—a list of the names and nations, to establish this almost incredible fact. But I have no access except to public documents, and from one of these I learn as much as will answer the present pinch. It is the report of the Committee of Ways and Means, in the House of Representatives, for the last session of Congress. That report admits that foreigners own seven millions of the stock of this bank; and everybody knows that the Federal Government owns seven millions also.

Thus it is proved that foreigners are as deeply interested in this bank as the United States itself. In the event of a renewal of the charter they will be much more deeply interested than at present; for a prospect of a rise in the stock to two hundred and fifty, and the unsettled state of things in Europe, will induce them to make great investments. It is to no purpose to say that the foreign stockholders cannot be voters or directors. The answer to that suggestion is this: the foreigners have the money; they pay down the cash, and want no accommodations; they are lenders, not borrowers; and in a great moneyed institution such stockholders must have the greatest influence. The name of this bank is a deception upon the public. It is not the bank of the Federal Government, as its name would import, nor of the States which compose this Union; but chiefly of private individuals, foreigners as well as natives, denizens, and naturalized subjects. They own twenty-eight millions of the stock, the Federal Government but seven millions, and these seven are precisely balanced by the stock of the aliens. The Federal Government and the aliens are equal, owning one-fifth each; and there would be as much truth in calling it the English Bank as the Bank of the United States. Now mark a few of the privileges which this charter gives to these foreigners. To be landholders, in defiance of the State laws, which forbid aliens to hold land; to be landlords by incorporation, and to hold American citizens for tenants; to hold lands in mortmain; to be pawnbrokers and merchants by incorporation; to pay the revenue of the United States in their own

notes; in short, to do every thing which I have endeavored to point out in the long and hideous list of exclusive privileges granted to this bank. If I have shown it to be dangerous for the United States to be in partnership with its own citizens, how much stronger is not the argument against a partnership with foreigners? What a prospect for loans when at war with a foreign power, and the subjects of that power large owners of the bank here, from which alone, or from banks liable to be destroyed by it, we can obtain money to carry on the war! What a state of things, if, in the division of political parties, one of these parties, and the foreigners, coalescing, should have the exclusive control of all the money in the Union, and, in addition to the money, should have bodies of debtors, tenants, and bank officers stationed in all the States, with a supreme and irresponsible system of centralism to direct the whole! Dangers from such contingencies are too great and obvious to be insisted upon. They strike the common sense of all mankind, and were powerful considerations for the old whig republicans for the non-renewal of the charter of 1791. Mr. Jefferson and the whig republicans staked their political existence on the non-renewal of that charter. They succeeded; and, by succeeding, prevented the country from being laid at the mercy of British and ultra federalists for funds to carry on the last war. It is said the United States lost forty millions by using depreciated currency during the last war. That, probably, is a mistake of one-half. But be it so! For what are forty millions compared to the loss of the war itself —compared to the ruin and infamy of having the Government arrested for want of money—stopped and paralyzed by the reception of such a note as the younger Pitt received from the Bank of England in 1795?

11. Exemption from due course of law for violations of its charter.—This is a privilege which affects the administration of justice, and stands without example in the annals of republican legislation. In the case of all other delinquents, whether persons or corporations, the laws take their course against those who offend them. It is the right of every citizen to set the laws in motion against every offender; and it is the constitution of the law, when set in motion, to work through, like a machine, regardless of powers and principalities, and cutting down the guilty which may stand in its way. Not so in the case of this bank. In its behalf, there are barriers erected between the citizen and his oppressor, between the wrong and the remedy, between the law and the offender. Instead of a right to sue out a *scire facias* or a *quo warranto*, the injured citizen, with an humble petition in his hand, must repair to the President of the United States, or to Congress, and crave their leave to do so. If leave is denied, (and denied it will be whenever the bank has a peculiar friend in the President, or a majority of such friends in Congress, the convenient pretext being always at hand that the general welfare requires the bank to be sustained,) he can proceed no further. The machinery of the law cannot be set in motion, and the great offender laughs from behind his barrier at the impotent resentment of its helpless victim. Thus the bank, for the plainest violations of its charter, and the greatest oppressions of the citizen, may escape the pursuit of justice. Thus the administration of justice is subject to be strangled in its birth for the shelter and protection of this bank. But this is not all. Another and most alarming mischief results from the same extraordinary privilege. It gives the bank a direct interest in the Presidential and Congressional elections: it gives it need for friends in Congress and in the Presidential chair. Its fate, its very existence, may often depend upon the friendship of the President and Congress; and, in such cases, it is not in human nature to avoid using the immense means in the hands of the bank to influence the elections of these officers. Take the existing fact—the case to which I alluded at the commencement of this speech. There is a case made out, ripe with judicial evidence, and big with the fate of the bank. It is a case of usury at the rate of forty-six per cent., in violation of the charter, which only admits an interest of six. The facts were admitted, in the court below, by the bank's demurrer; the law was decided, in the court above, by the supreme judges. The admission concludes the facts; the decision concludes the law. The forfeiture of the charter is established; the forfeiture is incurred; the application of the forfeiture alone is wanting to put an end to the institution. An impartial President or Congress might let the laws take their course; those of a different temper might interpose their veto. What a crisis for the bank! It beholds the sword of Damocles suspended over its head! What an interest in keeping those away who might suffer the hair to be cut.

12. To have all these unjust privileges secured to the corporators as a monopoly by a pledge of the public faith to charter no other bank.—This is the most hideous feature in the whole mass of deformity. If these banks are beneficial institutions, why not several? one, at least, and each independent of the other, to each great section of the Union? If malignant, why create one? The restriction constitutes the monopoly, and renders more invidious what was sufficiently hateful in itself. It is, indeed, a double monopoly, legislative as well as banking; for the Congress of 1816 monopolized the power to grant these monopolies. It has tied up the hands of its successors; and if this can be done on one subject, and for twenty years, why not upon all subjects, and for all time? Here is the form of words which operate this double engrossment of our rights: "No other bank shall be established by any future law of Congress during the continuance of the corporation hereby enacted, for which the faith of

Congress is hereby pledged;" with a proviso for the District of Columbia. And that no incident might be wanting to complete the title of this charter, to the utter reprobation of whig republicans, this compound monopoly, and the very form of words in which it is conceived, is copied from the charter of the Bank of England!—not the charter of William and Mary, as granted in 1694, (for the Bill of Rights was then fresh in the memories of Englishmen,) but the charter as amended, and that for money, in the memorable reign of Queen Anne, when a tory Queen, a tory Ministry, and a tory Parliament, and the apostle of toryism, in the person of Dr. Sacheverell, with his sermons of divine right, passive obedience, and non-resistance, were riding and ruling over the prostrate liberties of England! This is the precious period, and these the noble authors, from which the idea was borrowed, and the very form of words copied, which now figure in the charter of the Bank of the United States, constituting that double monopoly, which restricts at once the powers of Congress and the rights of the citizens.

These, Mr. President, are the chief of the exclusive privileges which constitute the monopoly of the Bank of the United States. I have spoken of them, not as they deserved, but as my abilities have permitted. I have shown you that they are not only evil in themselves, but copied from an evil example. I now wish to show you that the Government from which we have made this copy has condemned the original; and, after showing this fact, I think I shall be able to appeal, with sensible effect, to all liberal minds, to follow the enlightened example of Great Britain in getting rid of a dangerous and invidious institution, after having followed her pernicious example in assuming it. For this purpose, I will have recourse to proof, and will read from British state papers of 1826. I will read extracts from the correspondence between Earl Liverpool, First Lord of the Treasury, and Mr. Robinson, Chancellor of the Exchequer, on one side, and the Governor and Deputy Governor of the Bank of England on the other; the subject being the renewal, or rather non-renewal, of the charter of the Bank of England.

Communications from the First Lord of the Treasury and Chancellor of the Exchequer to the Governor and Deputy Governor of the Bank of England.—Extracts.

"The failures which have occurred in England, unaccompanied as they have been by the same occurrences in Scotland, tend to prove that there must have been an unsolid and delusive system of banking in one part of Great Britain, and a solid and substantial one in the other. * * * * In Scotland, there are not more than thirty banks, (three chartered,) and these banks have stood firm amidst all the convulsions in the money market in England, and amidst all the distresses to which the manufacturing and agricultural interests in Scotland, as well as in England, have occasionally been subject. Banks of this description must necessarily be conducted upon the generally understood and approved principles of banking. * * * * The Bank of England may, perhaps, propose, as they did upon a former occasion, the extension of the term of their exclusive privilege, as to the metropolis and its neighborhood, beyond the year 1833, as the price of this concession, [immediate surrender of exclusive privileges.] It would be very much to be regretted that they should require any such condition. * * * * It is obvious, from what passed before, that Parliament will never agree to it. * * * * Such privileges are out of fashion; and what expectation can the bank, under present circumstances, entertain that theirs will be renewed?"—*Jan.* 13.

Answer of the Court of Directors.—Extract.

"Under the uncertainty in which the Court of Directors find themselves with respect to the death of the bank, and the effect which they may have on the interests of the bank, this court cannot feel themselves justified in recommending to the proprietors to give up the privilege which they now enjoy, sanctioned and confirmed as it is by the solemn acts of the Legislature."—*Jan.* 20.

Second communication from the Ministers.—Extract.

"The First Lord of the Treasury and Chancellor of the Exchequer have considered the answer of the bank of the 20th instant. They cannot but regret that the Court of Directors should have declined to recommend to the Court of Proprietors the consideration of the paper delivered by the First Lord of the Treasury and the Chancellor of the Exchequer to the Governor and Deputy Governor on the 13th instant. The statement contained in that paper appears to the First Lord of the Treasury and the Chancellor of the Exchequer so full and explicit on all the points to which it related, that they have nothing further to add, although they would have been, and still are, ready to answer, as far as possible, any specific questions which might be put, for the purpose of removing the uncertainty in which the Court of Directors state themselves to be with respect to the details of the plan suggested in that paper."—*Jan.* 23.

Second answer of the Bank.—Extract.

"The Committee of Treasury [bank] having taken into consideration the paper received from the First Lord of the Treasury and the Chancellor of the Exchequer, dated January 23d, and finding that His Majesty's ministers persevere in their desire to propose to restrict immediately the exclusive privilege of the bank, as to the number of partners engaged in banking to a certain distance from the Metropolis, and also continue to be of opinion that Parliament would not consent to renew the privilege at the expiration of the period of their present charter; finding, also, that the proposal by the bank of establishing branch banks is deemed by His Majesty's ministers inadequate to the wants of the country, are of opinion that it would be desirable for this corporation to propose, as a basis, the act of 6th of George the Fourth, which states the conditions on which the Bank of Ireland relinquished its exclusive privileges; this corporation waiving the question of a prolongation of time, although the committee [of the bank] cannot agree in the opinion of the First Lord of the Treasury and the Chancellor of the Ex-

chequer, that they are not making a considerable sacrifice, adverting especially to the Bank of Ireland remaining in possession of that privilege five years longer than the Bank of England."—*Jan.* 25.

Here, Mr. President, is the end of all the exclusive privileges and odious monopoly of the Bank of England. That ancient and powerful institution, so long the haughty tyrant of the moneyed world—so long the subsidizer of Kings and Ministers—so long the fruitful mother of national debt and useless wars—so long the prolific manufactory of nabobs and paupers—so long the dread dictator of its own terms to Parliament—now droops the conquered wing, lowers its proud crest, and quails under the blows of its late despised assailants. It first puts on a courageous air, and takes a stand upon privileges sanctioned by time, and confirmed by solemn acts. Seeing that the Ministers could have no more to say to men who would talk of privileges in the nineteenth century, and being reminded that Parliament was inexorable, the bully suddenly degenerates into the craven, and, from showing fight, calls for quarter. The directors condescend to beg for the smallest remnant of their former power, for five years only; for the city of London even; and offer to send branches into all quarters. Denied at every point, the subdued tyrant acquiesces in his fate, announces his submission to the spirit and intelligence of the age; and quietly sinks down into the humble, but safe and useful, condition of a Scottish provincial bank.

And here it is profitable to pause; to look back, and see by what means this ancient and powerful institution—this Babylon of the banking world—was so suddenly and so totally prostrated. Who did it? And with what weapons? Sir, it was done by that power which is now regulating the affairs of the civilized world. It was done by the power of public opinion, invoked by the working members of the British Parliament. It was done by Sir Henry Parnell, who led the attack upon the Wellington Ministry on the night of the 15th of November; by Sir William Pulteney, Mr. Grenfel, Mr. Hume, Mr. Edward Ellice, and others, the working members of the House of Commons, such as had, a few years before, overthrown the gigantic oppressions of the salt tax. These are the men who have overthrown the Bank of England. They began the attack in 1824, under the discouraging cry of too soon, too soon—for the charter had then nine years to run! and ended with showing that they had begun just soon enough. They began with the Ministers in their front, on the side of the bank, and ended with having them on their own side, and making them co-operators in the attack, and the instruments and inflicters of the fatal and final blow. But let us do justice to these Ministers. Though wrong in the beginning, they were right in the end; though monarchists, they behaved like republicans. They were not like Polignacs. They yielded to the intelligence of the age; they yielded to the spirit which proscribes monopolies and privileges, and in their correspondence with the bank directors, spoke truth and reason, and asserted liberal principles, with a point and power which quickly put an end to dangerous and obsolete pretensions. They told the bank the mortifying truths, that its system was unsolid and delusive—that its privileges and monopoly were out of fashion—that they could not be prolonged for five years even—nor suffered to exist in London alone; and, what was still more cutting, that the banks of Scotland, which had no monopoly, no privilege, no connection with the Government, which paid interest on deposits, and whose stockholders were responsible to the amount of their shares—were the solid and substantial banks, which alone the public interest could hereafter recognize. They did their business, when they undertook it, like true men; and, in the single phrase, out of fashion, achieved the most powerful combination of solid argument, and contemptuous sarcasm, that ever was compressed into two words. It is a phrase of electrical power over the senses and passions. It throws back the mind to the reigns of the Tudors and Stuarts—the termagant Elizabeth and the pedagogue James—and rouses within us all the shame and rage we have been accustomed to feel at the view of the scandalous sales of privileges and monopolies which were the disgrace and oppression of these wretched times. Out fashion! Yes; even in England, the land of their early birth, and late protection. And shall they remain in fashion here? Shall republicanism continue to wear, in America, the antique costume which the doughty champions of antiquated fashion have been compelled to doff in England? Shall English lords and ladies continue to find, in the Bank of the United States, the unjust and odious privileges which they can no longer find in the Bank of England? Shall the copy survive here after the original has been destroyed there? Shall the young whelp triumph in America, after the old lion has been throttled and strangled in England? No! never! The thing is impossible! The Bank of the United States dies, as the Bank of England dies, in all its odious points, upon the limitation of its charter; and the only circumstance of regret is, that the generous deliverance is to take effect two years earlier in the British monarchy than in the American republic.

One word, Mr. President, upon an incidental topic. It is shown that the stock of the Bank of the United States has fallen five per cent. in consequence of the opinions disclosed in the President's Messages; and, thereupon, a complaint is preferred against the President for depreciating the property of innocent and unoffending people. I made a remark upon this complaint in the beginning of my speech, and now have a word more to bestow upon it. I wish to contrast the conduct of the American stockholders with that of the Bank of England

stockholders, in a similar, and to them, much more disastrous, case. The Bank of England stockholders, also, have had a decline in the price of stock; not of five dollars, but of thirty-five pounds, in the share. Bank of England stock, in consequence of Earl Liverpool's communication, and of the debates in Parliament, has fallen from 238 to 203; equal to a loss of $165 in every share. This is something more than $5. Yet I have never heard that Earl Liverpool, or any member of Parliament, has been called to account for producing this depreciation. It would seem that the liberty of speech, and the rights of discussion, in Great Britain, extended to the affairs of the Bank of England; and that Ministers and legislators were safe in handling it like any other subject.

Fourthly, I object, Mr. President, to the renewal of this bank charter, because this bank is an institution too costly and expensive for the American people to keep up.

Let no one cavil at this head of objection, because of that the Bank of the United States itself, like the hibernal bear, by sucking its own paws; or that it derives its substance, as the spider spins its web, from the bowels of its own abdomen. Such a belief would be officially erroneous, and highly unworthy the intelligence of the nineteenth century. The fact is, that the bank lives upon the people; that all its expenses are made out of the people; all its profits derived from, and all its expenses reimbursed by, them. This is the consequence every shilling of profit to the bank, over and above its expenses, is a tax upon the people; and I will look into the amount of this tax, to be too great for the people to bear.

The direct expenses of the bank, the cost of its annual administration, are returned at $3,000,000; and, assuming that sum to be the cost of the administration, the profits would be about seven millions and a half. The enormity of this tax is hard to the mind; but, to judge of it, let us compare it to the expenses of the Government. Let us take the Federal Government in the administration Washington's administration. According to this standard, I find the expenses of this branch of the Government, for 1792, $381,000; for '93, $358,000; for '94, $398,000; for '95, $361,000; presenting an average of $385,000; which is about one-ninth of the bank expenditure for 1830.

Let us see what were the heads of expenditure included in the civil list at the period referred to. They were the salaries of the President and Vice President; the salaries of all the Secretaries, their clerks and messengers, and the purchase of the paraphernalia of all their offices; compensation to both Houses of Congress, and the discharge of every attendant expense; salaries to all the federal judges, their marshals and district attorneys, and the cost of their court rooms; the expense of missions abroad, and of territorial governments at home. These were the items of the civil list; comprehending the whole expenditure of the administration for all objects, except the army; there being at that time no navy. The administration of the bank, therefore, actually involves an expenditure, rivalling that of the Federal Government in 1792, '93, '94, and '95; omitting the single item of the army, which was then on a war establishment. The next item of bank tax is that of the profits, in the shape of annual dividends. These profits are now seven per cent.; but have been less; and at one time, owing to an explosion produced by stock jobbing, were nothing. Assuming six per cent. for the average of twenty years, and the aggregate will be $42,000,000. In the third place, the contingent fund, reserved to cover losses, is near 5,000,000 dollars. Fourthly, the real estate, including banking houses, is above 4,000,000 dollars. Fifthly, *bonus* reimbursed to the bank, is 1,500,000. Sixthly, the interest on the public deposits, which the bank was receiving from the United States or individuals, while the United States were paying interest on the same amount to the bank or to others, was six millions of dollars on the standing deposit of about five millions. The aggregate is sixty-six millions of dollars; to say nothing of the profit on the stock itself, which is now twenty-six per cent., equal to $9,000,000 addition to the original capital. The annual average of this aggregate levy of sixty-six millions, is above three millions and a quarter of dollars; being very nearly as much as the whole expenditure of the Federal Government in the second year of Mr. Jefferson's administration, which was but 3,737,000, dollars, the army included, and the navy also, which had then sprung into existence. Will senators reflect upon the largeness of this levy, and consider how much it adds to the multiplied burdens of our complicated system of taxation? I say complicated: for, under our duplicate form of Government, every citizen is many times taxed, and by various authorities. First, his State tax, then his county tax, then his corporation tax, (if he live in a city,) then his federal tax, and, since 1816, his bank tax. The amount of each is considerable, of the whole, is excessive; of the bank tax, in addition to the others, intolerable.

The direct tax of 1798, which contributed so much to the overthrow of the men then at the head of affairs, was an inconsiderable burden to this bank levy. Not so much as one million was ever paid in any one year under the direct tax; while the annual levy of the bank tax is three millions and a quarter. The one is as truly a tax as the other, and as certainly paid by the people; and, as the reduction of taxes is now the policy of the country, I present this contribution to the federal bank, as the fit and eminent item to head and grace the list of abolition. I say, to head and grace the list! For

it is a tax not only great in itself, and levied to support a most dangerous and invidious institution, but doubly and peculiarly oppressive upon the people, because no part of it is ever refunded to them in the shape of beneficent expenditure. In the case of every other tax, in all the contributions levied for the purposes of Government, there is some alleviation of the burden—some restitution of the abducted treasure—some return to the people—some re-infusion of strength into their ranks—in the customary reimbursement of the revenue. The Government usually pays it back, or a portion of it for salaries, services, and supplies. But, in the case of the bank tax, there is nothing of this reimbursement. The bank refunds nothing; but all the money it makes out of the people is gone from them forever. It goes into a corner of the Union, and remains there: it goes into private hands, and becomes individual property. The stockholders divide it among themselves. Twice, in every year, they make the division of these modern *spolia opima*—these dearest spoils—not of the enemy's general killed in battle, but of American citizens fleeced at home. This is a grievous aggravation of the amount of the tax. It is the aggravation which renders taxation insupportable. It is "absenteeism" in a new and legalized form. It is the whole mischief of that system of absenteeism, which drains off the wealth of Ireland to fertilize England, France, and Italy, leaving Ireland itself the most distressed and exhausted country in Europe, instead of remaining, as God created it, one of the richest and most flourishing. Eternal drawing out, and no bringing back, is a process which no people, or country, can endure. It is a process which would exhaust the resources of nature herself. The earth would be deprived of its moisture, and changed into a desert, if the exhalations of the day did not return in dews at night. The vast ocean itself, with all its deep and boundless waters, would be sucked up and dried away, if the vapors drawn up by the sun did not form into clouds, and descend in rain and snow. So will any people be exhausted of their wealth, no matter how great that wealth may be, whose miserable destiny shall subject them to a system of taxation which is forever levying, and never refunding: a system whose cry is that of the horse-leech, more! more! more!—whose voice is that of the grave, give! give! give!—whose attribute is that of the grave also, never to render back!—and, such precisely is the system of taxation to which the people of these States are now subjected by the federal bank.

Of the three great divisions, Mr. President, into which this question divides itself, I have touched but one. I have left untouched the constitutional difficulty, and the former mismanagement of the bank. I have handled the question as if the constitutional authority for the bank was express, and as if its whole administration had been free from reproach. I

have looked to the nature of the institution alone; and, finding in its very nature insurmountable objections to its existence, I have come to the conclusion that the public good requires the institution to cease. I believe it to be an institution of too much power; of tendencies too dangerous; of privileges too odious; of expense too enormous, to be safely tolerated under any Government of free and equal laws. My mind is made up that the present charter ought to be allowed to expire on its own limitation; and, that no other, or subsequent one, should ever after be granted. This is my opinion; I may add, my belief; for I have the consolation to believe that the event will not deceive my hopes.

I am willing to see the charter expire, without providing any substitute for the present bank. I am willing to see the currency of the Federal Government left to the hard money mentioned and intended in the constitution; I am willing to have a hard money Government, as that of France has been since the time of *assignats* and *mandats*. Every species of paper might be left to the State authorities, unrecognized by the Federal Government, and only touched by it for its own convenience when equivalent to gold and silver. Such a currency filled France with the precious metals, when England, with her overgrown bank, was a prey to all the evils of unconvertible paper. It furnished money enough for the imperial Government when the population of the empire was three times more numerous, and the expenses of Government twelve times greater, than the population and expenses of the United States; and, when France possessed no mines of gold or silver, and was destitute of the exports which command the specie of other countries. The United States possess gold mines, now yielding half a million per annum, with every prospect of equalling those of Peru. But this is not the best dependence. We have what is superior to mines, namely, the exports which command the money of the world; that is to say, the food which sustains life, and the raw materials which sustain manufactures. Gold and silver is the best currency for a republic; it suits the men of middle property and the working people best; and if I was going to establish a working man's party, it should be on the basis of hard money; a hard money party against a paper party.

Mr. WEBSTER demanded the yeas and nays on the question to grant leave for the introduction of the resolution; and the vote being taken, was decided, without further debate, as follows:

YEAS.—Messrs. Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Forsyth, Grundy, Hayne, Iredell, King, McKinley, Poindexter, Sanford, Smith of South Carolina, Tazewell, Troup, Tyler, White, Woodbury—20.

NAYS.—Messrs. Barton, Bell, Burnet, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Livingston, Marks, Noble, Robbins,

Robinson, Ruggles, Seymour, Silsbee, Smith of Md., Sprague, Webster, Willey—23.

So the Senate refused leave for the introduction of the resolution.

Post Office Investigation.

Mr. GRUNDY said, that, in the Select Committee appointed to examine into the condition of the Post Office Department, a serious difference of opinion existed in relation to the description of testimony to be brought before them; and that he, for one, was unwilling that the opinions of part of that committee should prevail, without the concurrence of the Senate. He, therefore, submitted the following resolution:

Resolved, That the Select Committee appointed on the 15th day of December last, to inquire into the condition of the Post Office Department, are not authorized to call before them the persons who have been dismissed from office, for the purpose of ascertaining the reasons or causes of their removal.

TUESDAY, February 8.

Duty on Alum Salt.

Mr. BENTON rose to ask leave to introduce a bill to repeal the duty on alum salt. He said that this kind of salt was not manufactured in the United States; that it was indispensable in curing provisions, and had to be bought at whatever price it might cost. He said that the uses of salt, and the injury done to the community by taxing it, had commanded the attention of the British Parliament, and occasioned a committee to be appointed in the year 1818, whose labors were a monument to their honor, and a title to the gratitude of their country. They had taken the examinations in writing of more than seventy witnesses, comprehending men of the first character in every walk of life, of whom he would mention Lord Kenyon, Sir Thomas Bernard, Sir John Sinclair, Arthur Young, and Sir John Stanley, whose testimony, with the reports of the committee, extended to four hundred folio pages. He would read some parts of their testimony, and believed that the Senate would perform a great service to the American people if they would direct a committee to make an abstract of the whole, and publish some thousand copies for distribution among the people.

Mr. B. then began to read a part of the extracts which he had made, when he was interrupted by Mr. FOOT, of Connecticut, who made several points of order, one of which was, that Mr. B.'s motion was not seconded. The Vice President said that it was not usual to have motions seconded in the Senate; that the rule was a formality which had not been attended to in practice; but, if any Senator made it a point, the rule must be enforced. Mr. B. then appealed to the Senators from the *south* of Mason and Dickson's line to furnish him a second. Several rose, and, observing among them Mr. WOODBURY, of New Hampshire, he gave him the preference, because he was from the *north* of Mason and Dickson's line, and because he had been the first to open the campaign against the salt tax several years ago. He said that the report and speeches of the Senator from New Hampshire against the salt tax, would remain as monuments to his honor when his own poor exertions were forgotten; and he took pride and pleasure in paying this tribute to him, and making it more fully known in the West, that he was only the follower of that distinguished and patriotic Senator, so justly dear to the whig republicans of all quarters of the Union, in waging a war of determined hostility against the salt tax.

The other objections of Mr. FOOT being disposed of, Mr. B. went on to read, or state, the extracts to which he referred.

EXTRACT.

1. *From Sir John Sinclair's evidence.*—I was once at the farm of a great farmer in the Netherlands, a Mr. Messelman, at Chenoi, near Havre, where I was surprised to see an immense heap of Cheshire rock salt, which he said he found of the greatest use for his stock. He said, first, that, by allowing his sheep to lick it, the rot was effectually prevented; secondly, that his cattle, to whom he gave lumps of it to lick, were thereby protected from infectious disorders; and the cows being thus rendered more healthy, and being induced to take a greater quantity of liquid, gave more milk. And I saw lumps of this salt, to which the cows had access, in the place where they were kept. He also said, that a small quantity pounded was found very beneficial to the horses when new oats were given them, if the oats were at all moist. * * * He gave them great lumps, that they (the cattle) might lick when they chose. * * * One of the most important uses of salt, as connected with agriculture, is, that it preserves seed, when sown, from the attacks of the grub." * * * In a communication to me from Sweden, by Baron Schultz, he says, the salt destroys the different sort of worms found in the bodies of sheep, but in particular the liver worm.

EXTRACT.

2. *Arthur Young's Testimony.*—Did you ever try salt in the feeding of your cattle?

Yes; but chiefly with sheep; and I found the sheep astonishingly fond of it.

Do you think that it would be beneficial in preventing the rot in sheep?

I found it so in the years when my neighbors' sheep were generally affected with the rot; my sheep escaped, and my land was quite as wet as my neighbors'.

Do you think, considering the advantages in health, fattening, and the power of using inferior food in the feeding of cattle and stock in general, that the free use of salt would be an advantage equivalent to seven shillings a head to the farmer?

I should think it would be worth a great deal more. I think it is invaluable. In short, let my answer be what it would, it would be under the mark.

Dr. Young then gave his opinion that the stock in England would be increased in value above three millions sterling, nearly fifteen

millions of dollars, by the free use of salt. He estimated the stock in England to be—

Horses,	. . .	1,500,000 head.
Cattle,	. . .	4,500,000 do.
Sheep,	. . .	30,000,000 do.

EXTRACT.

3. *Testimony of William Glover, superintendent of the cattle of the Hon. Mr. Curwen, M. P.*

This deponent began to give salt to the cattle under his care the 19th November, 1817, and from that time till now the cattle have had salt, as follows: 40 milch cows and breeding heifers, each 4 ounces per day; 30 oxen, 4 ounces each per day; 27 young cattle, each 2 ounces per day; 26 calves, 1 ounce each per day; 48 horses, each 4 ounces per day; 444 sheep, 2 ounces each per week. The advantage of salt for sheep appears to this deponent to be great; as he says none of the stock have died in the sickness since they commenced giving salt; and they have had none in the rot; in other years they lost some of the ewes and wethers in the sickness. And this deponent says that he has now kept the cattle at Schoose farm ten years, and they were never so long without sickness.

4 *The affidavit of thirty-two farmers.*

We, the undersigned, being farmers, and the owners of land in the neighborhood of Workington, do hereby certify, that we are acquainted with and witnesses to the fact of Mr. Curwen giving salt to his cattle and horses, with their food, at the Schoose farm, and at Workington; and that we are desirous of using the same for our live stock if we could obtain it without difficulty, and at a cheap rate.

EXTRACT.

5. *Testimony of Mr. Curwen, M. P.*—In regard to cattle, I have under-estimated the quantity, because, if salt could be had at a moderate price, there is no animal I would give less than six stone, (14 pounds to the stone,) each per annum. * * * * * * * I believe if salt were in general use for cattle it would amount to 340,000 tons—about 14,000,000 bushels— * * "The importance of the free use of salt to agriculture can scarcely be estimated too highly. Salt contributes not only to the health of cattle and sheep, but accelerates and promotes the quantity of milk given by milch cows. [In another place Mr. C. says that the use of salt prevents the ill taste which the feeding on certain weeds and vegetables imparts to the milk.] It prevents the rot in sheep, and the effect of hoving, when stock are fed on turnips or clover. * * * Salt renders damaged hay palatable and nutritious; and, if applied in difficult seasons, prevents an undue fermentation and heat in the stack. Chaff and straw would be rendered available to a much greater extent than at present by the application of salt. It would be a most valuable ingredient in the preparation of warm food for stall-fed cattle in the improved system of soiling; and, from my experience of its salutary effects, I should consider the free use of it, as a condiment, the greatest boon the Government could bestow on the husbandman. * * * * * I consider the advantage from salt, in feeding my stock, on a farm of eight hundred acres, worth about one thousand pounds per annum, would exceed three hundred pounds per annum! (that is, add a third to the annual value of the farm.)

The probable consumption of salt for sheep and cattle may be taken as follows, to wit:

Per annum.	14 lbs. the stone.	Stones.
30,000,000 sheep	2 stone each	60,000,000
1,421,000 cows	6 do.	8,526,000
2,000,000 young cattle	4 do.	8,000,000
1,100,000 fatting beasts	6 do.	6,600,000
1,200,000 draught cattle	4 do.	4,800,000
300,000 colts and saddle horses.	3 do.	900,000
1,200,000 horses	not estimated	
		88,826,000

N. B. 14 pounds 1 stone, 4 stones 1 bushel, 4 bushels 1 cwt.

☞ The English bushel of salt is 56 lbs.

EXTRACT.

6. *Lord Kenyon's evidence before the committee.*—By the information which I have been able to collect, I am induced to consider salt, when sparingly applied, as an admirable manure, especially for fallows and arable land; and, when mixed up with soil out of gutters, or refuse dirt or ashes, to be very valuable also on grass lands. My own experience convinces me that it is very powerful in destroying vegetation if laid on too thick, having put a large quantity of refuse salt on about one-fourth of an acre of land, which, after two years, still remains quite bare. A land surveyor of high character in my neighborhood, considers that the use of salt would be likely to be very valuable in destroying the slug, wire worm, snail, &c., which often destroy whole crops. He also remembers that salt was used largely in the neighborhood of the Higher and Lower Wiches in Cheshire, before the duties were raised to their present height. With respect to its value for cattle, horses, and sheep, I am informed that it is very highly thought of, both as nutriment, and as used medicinally, internally and externally. Its value also is extremely well known for rendering bad and ill-gotten hay more nourishing and more palatable to cattle than even good hay.

EXTRACT.

7. *Evidence of Mr. Kingston.*—In reply to your queries, as an agriculturist, I have no hesitation in saying that salt, if freed from duty, would become one of the most useful and general articles of manure that ever was thought of, if properly composed, by mixing it with mud of any kind—the cleanings of ditches and ponds, the surface of coarse ground thrown into heaps to rot, blubber, &c. I am also persuaded, that if it could be afforded to be sprinkled on the layers of hay, when making into the rick, in catching weather, it would prevent its heating and getting mouldy. I had once some small cattle tied up to fatten, which did not thrive, owing, as the bailiff said, to the badness of the hay, of which they wasted more than they ate; but, by sprinkling it with water in which some salt had been dissolved, they returned to eat it greedily. I am free to say, a proper quantity of salt would prevent cattle from being hoven by an excess of green food.

EXTRACT.

8. *Mr. Thomas Bourne's examination.*—The committee understand you are a merchant, residing at Liverpool?

I am.

Can you speak as to the probable effect of the repeal of the salt duties on your trade?

It would be a good thing, in my opinion, for the country at large, and also the manufactures.

Have you any knowledge of its being used in food for animals?

Yes, to horses in particular.

Has it a good effect?

Yes.

Then do you not suppose, if the restrictions were taken off, it would come into more general use among the farmers, for stock of all kinds?

It would in that instance; we used to have five horses in our rock salt mine, and those horses always appeared in good condition, though very much worked.

Were they liable to less disorders than those out of the mine?

Yes; much less.

Do you happen to know whether they were in the practice at that time of receiving salt with their food?

Yes; to my knowledge they were.

In what quantity?

About a handful to a quartern of oats.

EXTRACT.

9. *Evidence of Mr. W. Horne.*—There are very few farmers who are not aware of the importance of salt in preserving hay, and restoring it when damaged; many of those whom I have conversed with on the subject, have used it for these purposes, and it would generally be resorted to, to the extent of ten or fifteen pounds to the ton of hay, if the duties on salt were repealed. Lord Somerville has furnished most satisfactory information on this subject; and I know, from respectable authority, that it is a common practice in the United States of America to sprinkle salt upon hay when forming it into ricks. We also learn from Lord Somerville, that Mr. Darke, of Breedon, one of the most celebrated graziers in the kingdom, mixed salt with his flooded mouldy hay, and that his Hereford oxen did better on it than others on the best hay he had; and he was convinced the hay had all its good effects from the salt. * * * * * I have learnt from Mr. Sutton, of Eaton, in Cheshire, that he would give thirty tons (120 bushels, of 56 pounds each) of salt a year to his cattle, being fifty cows, if the duty were repealed. * * * * In many parts of the United States of America, salt is generally given to cattle. * * * * * The excellent condition of the horses in the rock-pits of Cheshire, may be adduced in favor of its benefit in fattening cattle and keeping them in health. Many counted that they can attribute the longevity of their horses to the good effects of salt. Mr. Hadfield, of Liverpool, furnishes an instance in his horse, thirty years old; he constantly gave it rock salt to lick, placing it in his manger. Mr. Young has furnished us, in the annals of agriculture, with a most interesting and satisfactory statement (obtained from the Memoirs of the Royal Academy of Sciences at Paris) on the effect of salt in fattening cattle. From this report it appears, that to the unlimited use of salt was to be ascribed the circumstance of four times the number of sheep having been reared on a sterile common, than would otherwise have subsisted on it; and that the wool of these flocks is not only the finest in the whole country, but bears the highest price of any in France. The fineness of the wool of the Spanish sheep is also attributed, in a great measure, to the free use of salt. It is not, therefore, I presume, an extraordinary position to say, that, by a proper use of common salt, the same quantity of forage might, on many occasions, be made to go twice as far as it could have done, in feeding animals, had the salt been withheld from them!

EXTRACT.

10. *Mr. Charles G. Cothill, examined.*—What is your profession?

Answer. A bacon and provision merchant, residing in Judd street, Brunswick square.

What is the nature and amount of your business, and how far has it been affected by the salt duties?

Answer. About fifty years ago my father established a manufactory in Vine street, and expended £10,000 in adapting the premises for the curing of bacon and the salting of pork. Our annual returns were about £50,000: it is now diminished to less than £1,000 annually, in consequence, as I apprehend, of the very high duties on salt, as our trade has diminished progressively as those duties have increased.

Do you not consider that the breed of hogs has also diminished, in consequence of this increase of duty on salt?

Answer. Very materially; and, as a further proof of what I state, we had a very extensive trade of £200,000 a year in hogs; now not £10,000.

What effect, in your opinion, would a great reduction of the salt duties produce in your business?

Answer. I conceive it would restore our trade: we should then be able to supply the West India markets, and other colonies, with salted pork, cheaper and better than any other country.

What is the quantity of salt used upon 100 weight of pork, to make bacon?

Answer. In a manufactory of bacon, about 12 pounds; to cure a small quantity, about 17 or 18.

EXTRACT.

11. *Testimony of Sir Thomas Bernard.*—I ventured to suggest that a tax on salt was fundamentally wrong in principle, because it presses most on the class least able to bear the weight—because of its immoral tendency—and because it deprives the nation of benefits, beyound measure greater than the whole produce of the impost. The salt duties are about a million and a half sterling per annum, (about seven millions of dollars.) The poor use most salt in proportion to their wealth; a cottager in the country ten to one in proportion to a nobleman in town. But the benefits of which the nation is deprived by the salt duties, are not easily appreciated, or even numbered. In agriculture and rural economy alone, the loss in feeding cattle, sheep, and hogs—in restoring damaged provender—in manure, and in the effect on wages, may, without extravagance, be supposed to exceed the whole value of the tax. Equal, perhaps, would be the gain to our manufacturers of woollen, linen, glass, earthenware, soap, &c., &c., &c., by the unrestrained use of muriate and carbonate of soda and muriatic acid, of which our salt mines and ocean afford supplies absolutely inexhaustible.

Mr. B. having read, or stated, these extracts, to show the use of salt in agriculture, said there were many other witnesses examined, to prove that alum salt, which the English usually called bay salt, because it was made by solar evaporation, out of sea water in the bay of Biscay, and other bays, was indispensable to the curing

of provisions for long keeping, or for exportation, other articles connected with agriculture, as cheese, butter, bacon, pickled beef, and pickled pork; and that the English Government permitted alum salt, under the name of bay salt, to be imported both into England and Ireland duty free, for these purposes, even when the domestic manufacture of common salt in England far exceeded the home demand, and furnished millions of bushels for exportation. He also stated that the committee of the House of Commons had examined the first physicians of Great Britain, to prove the effect of a deficiency of salt in the provisions of the poor on their health, and that these physicians uniformly testified that many diseases of the poor, and especially in children, were the effect of using vegetables not sufficiently salted, and fish and meat not sufficiently cured. He also stated that the committee had extended their examination to the use of salt in various manufactories, and had established, by proof, that a variety of useful manufactures required the abolition of the salt duty. On this point he read extracts from the examination of Samuel Parkes, Esq., an eminent chemist of London, as follows:

EXTRACT.

12. *Examination of Samuel Parkes.*—What is your profession?

I am proprietor of the chemical works in Goswell street, London, and of other chemical works in Maiden lane, Islington.

Can you acquaint the committee what are the manufactures most affected by the salt laws?

The manufactures of mineral alkali, crystallized soda, muriatic acid, hard soap, distinguished from soft soap, Glauber salt, Epsom salt, magnesia, and sal ammoniac, are all materially affected by the duty on salt; but as common salt, or one or other of the component parts of common salt, is made use of in the composition of a great variety of articles that are employed in our manufactures, it is difficult to answer that question with precision. * * Respecting soap, I have only to observe, that common salt is absolutely necessary for the manufacture of hard soap; for however plentifully potash may be produced, large quantities of common salt must be employed with it, or the soap will be only temporarily hard; it will have no lasting consistence. * * Salt is employed largely in the preparation and manufacture of a great number of other articles that might be enumerated; and in a short time I have no doubt they would all be benefited by the reduction of the duty on salt.

How does the price of salt affect the soap boilers?

As it affects all other trades in which salt is employed.

State the way in which it affects them.

The cheaper it is, the cheaper they will have it if they buy it.

Do you know any other (manufacturing) purposes for salt?

Yes: it is used in very large quantities by dyers, when it can be had cheap; and in a great variety of other ways.

With respect to the salting of hides, I learn from further inquiry, that the butcher usually applies five pounds of salt to every ox or cow hide which he has occasion to lay by, or to send to the tanner at a distance.

Crystallized soda (made of salt) is much used in washing. Four hundred tons are annually made at the Long Benton works only.

You have stated that, during the last six or seven years, it has increased from one to four hundred tons?

Yes.

This at the Long Benton works only?

Yes.

Which is made from salt duty free?

Yes. They have an exclusive privilege.

When Mr. B. had finished reading these extracts, and expressed his regret that, out of seventy witnesses, and four hundred folio pages of testimony, he could read no more without encroaching too much on the time of the Senate, he said he would introduce the testimony of some American witnesses to the same points. He had seen the statements of the English witnesses last winter; and, being desirous to hear what Americans would say on the same subject, he had, in the course of the last summer, addressed certain queries to some friends and acquaintances in the western States, and had received from many of them communications of so much interest and value, that he should lay them before the Senate; and, first, would exhibit the queries for the better understanding of the answers. The names of his correspondents, he said, would be known to the members of the Senate from the States in which they reside; some will be known to the Senators from many States; and some to the whole body of the Senate.

Queries on the state of the salt trade in the Western States.

1. Whether the trade in salt is monopolized? and, if so, at what works? and over how many States do the sales of these monopolists extend?

2. The practices of the monopolists, if any, to enhance the price of salt, and to prevent competition?

3. The prices of domestic and foreign salt in your neighborhood, and the freight of foreign salt from New Orleans?

4. Whether the monopolists have established depots of salt in different States, and appointed agents to sell their salt, and restricted the sales of each depot to its district? How far are the depots apart in your State?

5. Whether the salt manufacturers have entered into agreements with the monopolizers to restrict the quantity of salt made at the works? to confine the sales to the monopolists? and to stop working wells and furnaces for pay? The meaning of the phrase "dead wells," and the rent of such wells?

6. Whether salt is sold in your neighborhood by weight or measure? If by weight, how many pounds are allowed to the bushel? and how much a weighed bushel measures?

7. In selling by the barrel, is due allowance made for the weight of the barrel, and for the loss of salt in drying? If not, what is the difference between the real and nominal quantity in the barrel?

8. Whether the monopolists sell for money, or

country produce? for ready pay, or upon credit? and whether the price is higher or lower since the monopoly?

9. Do the monopolists rise and fall in their prices according to the presence or absence of competition? and what salt competes with them?

10. Do they realize great gains?

11. Whether the domestic salt is fit for pickling beef and pork, for curing bacon, and preserving butter for exportation, or consumption in the South, or long keeping?

12. Whether beef and pork, put in common salt, will be received for the use of the army or navy?

13. The necessity and expense of repacking beef and pork in alum salt, in New Orleans, which has been put up in domestic salt?

14. The necessity and advantage of giving salt to horses, cattle, sheep, and hogs? Whether salt is not indispensable to stock in the Western States? Whether there is not a great difference between inland and maritime States in this respect? The reason of that difference? How much salt per head, and how often per week or month ought it to be given to each kind of stock? and whether the farmers in your section of the country are prevented, by the high price and scarcity of salt, from giving as much to their stock as they need?

15. The use and advantage of salt in preserving hay, fodder, and clover? In restoring them, after being damaged by wet?

St Louis, July, 1830.

Communication from G. T. C. MCCLANNAHAN, Esq., *of Jackson county, North Alabama, October*, 1830.

Your first query: The trade of salt is entirely monopolized here by James White, of the Holston salt works, in Virginia. I cannot exactly tell to what States these works furnish salt, but it is to be supposed to the western parts of Virginia, eastern part of Tennessee, a part of North Carolina, the northern part of Georgia, North Alabama, and some in South Alabama, &c., &c.

Query 2d.—Colonel J. White has a depot at this place, a mile and a half from Tennessee River, down which stream he boats his salt. And if any person else brings salt here to sell, they immediately undersell that person and ruin him. The people sometimes get their salt from Nashville, when they have a convenience of doing so, and it comes much cheaper, after paying land carriage one hundred and thirty miles, than White's salt; but no person dares to compete with him here; because he can, at his will, undersell any person who pays a land carriage of one hundred and thirty miles; and therefore instantly break them up. One thing is yet to be told, which will convince any man of the sin and oppression of this monopolizing system. This same James White will carry his salt by us down to Ditto's Landing, ten miles below Huntsville, haul it out to Winchester, Tennessee, which is fifty-five miles of land carriage, and sell it there so much lower than he will here on the river take it out of his boats, that some of the planters, who are able to take their wagons and cross a very bad mountain, (part of the Cumberland,) haul their salt over from Winchester, which is forty-five miles from this place. Is this not oppressive to the poor? Would not this governmental monopolist wring from the distressed orphan, widow, and war-worn soldier, all their earthly sustenance? And yet the Congress of the United States—this boasted land of liberty and equal laws, countenances such oppressive acts. Why does Mr. White not sell as low here on the river as at Winchester, after carrying his salt one hundred and twenty miles, fifty-five by land, and that, too, the very same salt? The answer is obvious. At Winchester there is some competition; it is not so far from Nashville, where foreign salt may be obtained. And this is why he sells it lower there than at this place.

We are here fenced in with almost impassable mountains, at a great distance from any commercial depot, and without the means of shunning the exorbitant exactions of these vampires, who take the bread from the mouths of our children with the calculating coldness of an Arab; and these acts are legalized by a Congress of freemen. We are glad to hear the stern voice of indignation at this oppression, uttered by some of the patriotic republicans of that body; and we should glory in being among the most persecuted victims, if by that means this most pernicious system of monopoly could be overturned.

Query 3d.—We have no foreign salt here for sale; two years ago some gentlemen brought a few bushels from Nashville, and sold it for one dollar and eighty-seven and a half cents per fifty pounds, underselling the salt gentlemen here at that time. The domestic salt has got lower than it was four years ago. Then it was two dollars and fifty cents, now one dollar and eighty-seven cents to two dollars.

The freight from New Orleans to Nashville is one cent per pound, as I am informed by a merchant of this place, and from Nashville to this place one and a quarter cents per pound.

4th. There is a depot here, and another at Ditto's Landing, as I am told, for selling salt. These places are about fifty-five miles apart by land. The remaining part of the question I do not know any thing about.

5th. Colonel White, as I have been informed by good authority, leased the Preston salt works, in what is called New Virginia, for nine or twelve thousand dollars annually; but I am further informed that the lease is out, and the works are to go into active operation to compete with White, he having let them lie idle heretofore; these are "dead wells," but the number of dead wells he has I am unable to inform you.

6th. Salt is sold here by weight, fifty pounds to the bushel; and fifty pounds (the bushel) of the salt which I tried, (without pressing,) measured $1{,}188\frac{595215}{1000000}$ solid inches, making 4 gallons $1\frac{4632}{10000}$ quarts, dry measure, which is but very little over half a measured bushel. Therefore, when salt is two dollars the fifty pounds, we have to pay at the rate of three dollars and sixty-six and a half cents the measured bushel. This is oppression in a free country—this is the fruit of the tariff.

7th. In selling by the barrel, the weight of the barrel, and the net weight of salt, is sometimes, and most commonly, placed on the barrel; but the weight of the barrel is marked much less than its real weight.

They make no deduction for the drying of the salt. One barrel I particularly weighed out, and it lost twenty pounds; and I am credibly informed that some have lost as much as fifty.

8th. The monopolists here sell for money, or cotton at the cash price, which is the same thing as

money. They do not credit their salt. There are always two prices for cotton here—a cash and discount price. Merchants, in taking in cotton for their accounts, give more for it than they will in money; and this is called the discount price. The salt gentlemen sell their salt for cotton, at the cash price. The remaining part of the query I know nothing about.

9th. The monopolists have fallen here, since they find that people would go to Nashville for their salt, if they did not. But they know at what price to keep it up; they know the planters cannot take the trouble to go one hundred and thirty miles to Nashville, to get a little salt; and they know that no person dares to compete with them; as they could instantly reduce the price of their salt, and thereby ruin their competitor.

10th. They certainly must realize great gains, or they would not give nine or twelve thousand dollars annually for one manufactory, to let it lie idle. Why does not Congress lease all the salt works in the United States, and let them lie idle, and then knock the duty off of salt, if they wish to encourage the manufacture of salt, by filling the pockets of the manufacturers? It would be much better for the people. They would be great gainers by purchasing the salt works, and demolishing them, or letting them out at a small rate, and then striking the duty from salt.

The remaining queries, I am in hopes, will find abler persons to answer them than I.

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Communication from a meeting of the citizens of Madison county, Alabama, 8th of November, 1830, the subject proposed by Dr. William H. Glasscock, and authenticated by the signatures of Thomas Miller, President, and Charles A. Jones, Secretary.

Answer to 1st. The salt consumed here is almost exclusively obtained from Col. James White's manufactory, of Virginia, and sold by his agents in East Tennessee, a part of North Alabama, and West Tennessee.

2d. We can give no definite answer.

3d. The price of domestic salt is one dollar and twenty-five cents per bushel, by the barrel, or one dollar and seventy-five cents by the single bushel. Foreign salt sells at about the same. The freight of salt, from New Orleans to Huntsville, is about one cent and three-fourths per pound.

4th. Colonel White has salt deposited in different parts of this State, and others, at various distances from each other, say ten to fifteen miles.

5th. Preston's works were for some time discontinued for—say ten thousand dollars per annum.

6th. Universally sold by weight, allowing fifty pounds to the bushel; the measured bushel will weigh from seventy to eighty pounds.

7th. When the salt is weighed out of the barrel, it seldom holds out, and frequently loses from five to twenty pounds. We may add, that, however honestly it may have been put up at the works, it is generally brought down in open boats, subject to the winter rains, which damage it more or less; and we know of but one of his agents who sells it any other way than by the marked weight.

8th. Salt is sold for nothing else but ready money.

9th. Salt is sold, high or low, according to competition. The Kenhawa ground alum and Liverpool are brought in but sparingly, which is the only competition.

10th. We believe that White realizes great gains. We are sustained in this opinion, from his carrying it by land twenty-five or thirty miles farther, where he meets with competition, and selling it for less than he does here.

11th. Wholly unfit.

12th. It will not be received for either

13th. We can give no correct answer.

14th. It is indispensable for stock of all kinds. It is thought they require more in the Western States than maritime States, owing, probably, to the absence of the sea breeze, and vapor impregnated with salt coming from the sea, and alighting on the vegetable matter. Stock of all kinds should be salted twice a week; but, owing to the high price of salt, the stock are probably not salted more than once in two weeks, on an average. From the best accounts, three thousand barrels of salt are consumed annually in Madison county, averaging about six bushels (of fifty pounds) to the barrel. The population being about twenty-seven thousand, gives us an average of thirty-three pounds and one-third to each person. Were those heavy duties taken off, the consumption would be much greater.

15th. Salt is thought to be useful in preserving hay, fodder, and clover; each will keep well if sprinkled over with it, though not thoroughly cured when put up. Moreover, our pork is often spoiled from the want of a sufficiency of salt to pack it up in, which we cannot obtain on account of the high price. Thousands, and tens of thousands of pounds are often lost from that circumstance alone. Alum salt would be an immense saving to North Alabama, in that one particular.

Resolved, therefore, unanimously, That the delegation from this State, as well as those of our sister States, have our unfeigned thanks for their exertions and co-operation in the last session of Congress, with Mr. Benton, in endeavoring to repeal the duty on salt; and that we request our delegation to use their utmost to effect the repeal of a tax so burdensome to us, and of no ultimate advantage to any State.

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Communication from Colonel F. W. Burton, formerly of North Carolina, now of Murfreesborough, Tennessee, dated December 8, 1830.

Your favor of July last, propounding fifteen queries on the state of the salt trade in the Western States, was received in due time. To the thirteen first of these queries, I am sure that the commercial gentlemen of the country can render a much more correct and satisfactory answer than I can.

To the fourteenth I will observe, that salt is indispensably necessary to the good condition of horses, horned cattle, sheep, and hogs, in the Western States. It is beneficial in the maritime States likewise, and the more so as you recede from the seaboard. The watery constituent parts of the atmosphere on the seaboard take with them salt, which is inhaled by these animals, and thereby they are supplied with that salt which is necessary for the healthful condition of all animals, both granivorous and herbulent, and to some of those that are carnivorous. The quantity of salt, per head, to each kind of stock, will depend on the food with which they are supplied. If with grain, less; if with herbs, more salt. I am sure, if the price of salt be reduced, the farmers in this section of the country would give their stock a better supply, and that their improvement

would be in proportion to the increased quantity given. To err, by an excess, is not to be apprehended.

To the fifteenth query I will remark, that the use of salt, in the preservation of hay, is well expended. And if new mowed hay, or clover, or other grasses, be packed, a layer of hay, and a layer of straw, either wheat, oats, or rye, and a good supply of salt to each layer be added, you make the best of food for horses and cattle.

I approve, very highly, your intention to repeal, if you can, the salt tax, totally and promptly. In this, and all efforts of your useful life, I wish you success.

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Communication from General William Hall, of Sumner county, Tennessee, dated December 8, 1830.

I received your "queries on the state of the salt trade in the Western States," in due time; and have delayed answering them, only that I might obtain all the information within my reach necessary to a correct reply. The queries will be answered in the order in which they are proposed, Nos. 1, 2, &c., answering to the corresponding numbers in the queries.

1st. The salt made at the Kenhawa works, from whence a large portion of the supply for this State, Ohio, Kentucky, Indiana, and Illinois, is obtained, is monopolized.

2d. The monopolists have depots and agents in the different States, supplied by them, who are required to account quarterly for sales, which are made for cash, and at prices fixed by the monopolists.

3d. The prices of domestic and foreign salt vary from seventy to one hundred cents per bushel of fifty pounds. Freight from New Orleans may be had at fifty cents per hundred pounds.

4th. Answered in No. 2.

5th. I have not been able to obtain any satisfactory information as to this query.

6th. Salt is sold in this State, and throughout the western country, by weight. The measured bushel weighs from twenty to twenty-five pounds more than the weighed bushel.

7th. An allowance is made for the weight of the barrel, though none for the loss of salt in drying.

8th. Is answered, in part, previously. The price is higher since the monopoly.

9th. The price of salt is regulated by the quantity in market. The quantity of foreign, or other domestic salt, brought to this market, is inconsiderable.

10th. The monopolists realize great gains.

11th. Although Kenhawa salt is very superior to any other domestic salt brought to this market, I am informed that nearly all the beef and pork from the western country is repacked in foreign salt, either for shipment, or for the army or navy.

12th. See No. 11.

13th. I am not informed as to the price of repacking beef or pork which has been put up in domestic salt.

14th. The necessity and advantage of giving salt to stock of every kind is universally admitted. It is indispensable in the Western States, and ought to be given to all kinds of stock about once a week, and to each head of horses or cattle from two to four ounces at a time, and less than half that quantity to sheep or hogs, though farmers in this section are prevented from giving their stock the necessary quantum of salt, owing to the high price of the article.

15th. The use and advantage of salt in preserving of hay, fodder, and clover, is admitted by all practical farmers, although but few avail themselves of the advantage, in consequence of the scarcity and high price of salt.

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Communication from Lieutenant Governor Breathitt, of Kentucky, dated Russellville, Nov. 16, 1830.

My information will not enable me to answer your favor on the state of the salt trade in detail.

From the general opinion on the subject, there is no doubt there was, during the last year, an extensive salt monopoly supplied from the Kenhawa works. Depots were had principally on the watercourses for salt, where it was vended by their agents, sometimes on a credit of four or six months. Whether it continues the present season, I am not advised. Those depots extended to Tennessee. Sales were made for money. There is but little foreign salt brought into this neighborhood: I cannot, therefore, state the difference in price. This neighborhood is supplied from the Illinois saline, and the Kenhawa salt from the latter is preferred to preserve meat. It is not so white and clean as that from the saline. It is usually sold by weight—50 lbs. to the bushel, when sold by the barrel. The tare of the barrel is taken off, and the salt is generally weighed at the time of sale. It is, however, sometimes otherwise. About this time last year, the common price, at this place, was one dollar per bushel; now, it may be purchased at seventy-five cents. There is no doubt that salt is indispensable for the use of stock, and particularly in this country. Much stock has been raised upon the grazing the forest affords, and if they are furnished plentifully with salt, they are fat. Hence the necessity of its being as cheap as possible, and because, also, of its universal use by all. I was pleased at the reduction of the duties last session on coffee, tea, molasses, and salt. I should be pleased, however, to see the duties retained on manufactured articles, so that our own manufactories may enter into competition with foreign ones, and make a reasonable profit. I would not have them to have unreasonable profit: then it would be a tax upon one portion for the benefit of the other. The point to stop at is one of difficulty, and requires great experience and much research.

I should be pleased to hear from you occasionally.

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Statement of the Hon. Mr. Lyon of Kentucky.

That, being a member of a mercantile house which received a quantity of salt from the Kenhawa Salt Company, to sell on commission, in the years 1826—'7, with instructions to sell at the original mark or lick weight, finding many of the barrels greatly deficient in weight, varying from 10 to 20 per cent., they reweighed, and sold a quantity at the real weight; that, when the agent of the company came on, he was dissatisfied, and said it was their custom to sell elsewhere at the original mark, and that it must be so sold there, which they refused to do. The agency, and the salt on hand, were transferred to other hands; and that he has great reason to believe the necessities of the people, in many instances, compelled them to purchase the deficient barrels at their marked weight.

Also, that being in company with the Hon. Mr. Benton, of the Senate, in ascending the Ohio from Cincinnati, last fall, on board the steamboat Emigrant, said to belong to, and be in the employ of the Kenhawa Salt Company, which was towing a keel-boat to Maysville, Kentucky, loaded with alum or foreign salt, and delivered there for the purpose of salting pork in that part of Kentucky.

Feb. 1830.

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Communication from General Milroy, of Delphi, Indiana, dated Nov. 25, 1830.

I received your letter requesting information relative to the salt trade of this country. My limited acquaintance with mercantile business will enable me to say but little from my own knowledge on the subject. I can say, however, that the belief is universal, and uncontradicted in this part of the country, that agents employed by the salt manufacturers furnish exclusively the supply of that article for the valley of the Wabash; and that none is permitted to be vended by others, so far as can be prevented by them; and that those agents are regulated by fixed prices, under which they may not sell, but can raise the price in proportion to the demand. It is also believed that a scarcity of salt is frequently occasioned by the inadequacy of the manufactories to produce sufficient supplies, or that those monopolists hoard it up for the purpose of extorting exorbitant prices; neither of which causes would operate to produce the scarcity and high price so oppressive to the West, was the salt trade left open to the natural course of competition.

The monopoly of the salt trade is notorious, and is one of the greatest grievances to be complained of in the West; and it is believed that the unrestricted importation of alum salt is, perhaps, the only method which can be adopted effectually to break it down, unless Congress should think proper to declare it a criminal offence to attempt a monopoly of any article of necessary consumption, as the British parliament has done, and render such offence punishable by fine and imprisonment, which even would not be so effectual.

It will not be disputed but that a supply of alum salt is necessary in the West, even if the domestic salt was obtainable unembarrassed by monopoly, from its superior qualities in the preservation of beef and pork in a southern market, where we must of necessity send our surplus of those articles. It is believed by stock raisers, that a much larger quantity of salt is necessary for stock in the Western than in the Atlantic States, owing, doubtless, to the nature of the food on which they are subsisted, and the diseases to which they are subject.

I should have been much gratified to have been able to furnish you information on all the points on which you request it, and should have done it most cheerfully had I been in possession of it. Not doubting, however, but that the method you have taken will elicit it in abundance, I shall, therefore, rest satisfied, anxiously desiring the successful result of your efforts to repeal the salt tax entirely, concurring with you in opinion that it is the best service that can be rendered to the West next to the graduation of the price of public lands: in both of which great western measures, you have the concurrence of a vast majority of the West most ardently wishing you success.

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Communication from General Tipton, of Indiana, dated Logansport, Indiana, Nov. 24, 1830.

Your printed letter of July last has been duly received, and I have made strict inquiry of merchants, and other gentlemen of intelligence of this vicinity, in relation to the salt monopoly. From facts collected from them, and some within my own knowledge, I have no hesitation in saying that there is, and has been for years, a monopoly of that article, to the great injury of the poorer class of the people of Indiana.

Deposits for the sale of salt are established along the Ohio and the Wabash Rivers, at from thirty to forty miles from each other, by monopolists from Kenhawa, in Virginia, and from Kentucky. One agent of these monopolists is at this village; another at Lafayette, forty miles below, who rise or fall in their prices according to the competition they meet, and, by this means, oppress the poor, and amass wealth to themselves to a very large amount per annum.

The salt manufactured at the wells at Kenhawa, and in Kentucky, will not preserve pork in the southern climate. In the winter of 1822 I descended the rivers to New Orleans, with a quantity of pork put up with salt, made at the wells of these monopolists. Soon after my arrival at New Orleans, I was compelled to purchase Turk's Island salt, and repack my pork; thereby incurring an expense of one hundred and fifty dollars.

I have no doubt that it would be of great benefit to Indiana to repeal the law levying a duty on foreign salt.

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Communication from J. G. Reed, Esq., member of the Senate in the State of Indiana, dated Washington County, Nov. 30, 1830.

I received yours of July last, and am sorry that it is not in my power to give you a more full account of the subject matter therein contained. Relative to the act of last winter reducing the duty on salt, I have only to say that, in this section, it met with almost universal satisfaction, and a great anxiety is expressed that the entire duty be taken off this winter.

I now proceed to answer, in a brief and concise manner, a few of the queries propounded by you.

1st. "Whether the trade," &c.—It is, but at what works particularly I do not know. The monopoly extends throughout this State, and, I am informed, generally throughout the Western States.

3d. "The price," &c.—Domestic salt is $1 25; foreign $1 50. The freight from New Orleans is one dollar per hundred.

4th. "Whether," &c.—They have; the depots are generally from twenty to thirty miles.

6th. "Whether salt," &c.—It is sold by weight, 50 lbs. to the bushel; a weighed bushel will not measure more than three pecks.

8th. "Whether," &c.—They sell only for cash in hand. The price is higher since the monopoly.

9th. "Do the," &c.—I do not know, but presume they do. Foreign salt competes with them.

11th. "Whether," &c.—It is not.

12th. "The expense," &c.—Some few years ago, I had a number of barrels repacked in New Orleans, which had been put up in domestic salt: it cost me $1 12½ per barrel, and 12½ cents for each hoop that was furnished in the place of those that got broken

in the process. I presume the price is nearly the same yet.

14th. "The necessity," &c.—Salt to stock in this country is of great importance; without it, but few could be raised. It prevents many disorders, &c.; and many farmers here are prevented, from the high price and scarcity of salt, to give them what they need.

15th. "The use," &c.—It is of great use. It is found to be an advantage of at least 50 per cent. to hay, particularly prairie hay, that is of little or no use without salt; is found to be almost equal to fodder when properly put up in salt.

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Communication from Gen. W. H. Harrison, of Ohio, dated Washington City, Feb. 5, 1831.

I have always supposed, and every year's experience confirms me in the opinion, that the duty on salt (at least the higher rate of duty lately paid) was injurious to the interest of agriculture in that part of the Western country in which I reside. One of our staples, and the one which I believe yields the most profit to the farmer, is pork. The increase of its manufacture (if I may so call it, meaning the preparation of it in barrels for exportation) is altogether astonishing. It is believed that, in Cincinnati alone, there were slaughtered and packed this year one hundred thousand hogs, averaging at least six dollars, and thus scattering $600,000 amongst the farmers. It is ascertained, beyond contradiction, that sea salt is necessary to prevent its spoiling in its passage through the hot climate of the Mississippi, in its course to a foreign market, or to our own Atlantic ports. In both of these, our pork, of late years, has acquired a very high character. This is due to the experience which has been acquired in packing, and to the exclusive use, when it can be procured, of sea salt. Before that article was brought to Cincinnati by the steamboats, the pork which was prepared with the Western salt was always repacked at New Orleans, when sent to a market beyond that place, at an expense of one dollar per barrel, and sometimes with a considerable deduction from the quantity, from the rejection of tainted pieces. And, indeed, after its arrival at the foreign market, it brought a much less price than the pork of the Atlantic States, which had been cured with sea salt. From these facts, it must be evident that, in proportion to the abundance and the cheapness of sea salt in the city of Cincinnati, the price of pork must, in a great measure, be governed, and the price in that great mart governs it in the surrounding States.

In the year 1826 or '7, the pork market opened in Cincinnati tolerably well; but the pork dealers from the Atlantic cities, finding a great deficiency of sea salt, and that at a very high price, refused to purchase, and the article fell to $2 and $2 50 per hundred.

The objection, in the Western country, that has been urged against abolishing or reducing the duty on salt is, the apprehension that it may destroy the Western manufactories of that article. Against the probability of this occurrence is the fact of the advance of price in the domestic article of from seventy-five to one hundred per centum in the course of six or seven years. I am not able to say what is the cost of manufacturing the domestic article at the several works in the Western country. I have understood, and believe, that from thirty to thirty-five cents was considered a fair price for it in Cincinnati some years ago. It is not now sold lower than fifty cents; and, for some time in December last, sixty-two and a half cents per bushel of 50 lbs. was charged for it.

I will add the further fact against the successful competition of the imported with the Western salt for domestic purposes, for which the latter is equally good with the former, that the salting of pork commencing in the beginning of December, the salt must be imported in the spring which is intended to supply the market—the usually low state of the rivers in the summer and fall preventing the navigation in these seasons. The investment of money, therefore, by the merchant in the article must be made at least six months before he can effect a sale of it.

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Communication from John C. Webb, Esq., of Missouri, dated Cape Girardeau, county of Jackson, November 24, 1830.

I saw in the Jackson Mercury, August 30, a request of yours to the citizens of the West, for information or answers to several queries on the article of salt. Considering myself interested in the matter, I shall endeavor to answer them so far as my own knowledge of the matter extends.

To the first query I know but little of myself further than this: there are some merchants amongst us that have been applied to for salt, and proposed trade in payment; their reply was, they were selling on commission, and could take nothing else but money for it.

The second query I know nothing about.

3d. The price of domestic salt in Jackson, varies from one dollar to one dollar twenty-five cents per fifty pounds, and that weighed with old rusty steelyards that will not preponderate, for eight or ten pounds. Foreign salt is never lower than one dollar and twenty-five cents per fifty pounds. Domestic, by the barrel, varies from seventy-five to eighty-seven and a half cents; foreign ditto, one dollar per fifty pounds by the sack, after paying for the weight of the sack, and then adding fifty cents more for the sack. The common freightage from New Orleans to the Cape, from seventy-five cents to one dollar per hundred.

4th. As to this query I know nothing of myself.

5th. This I likewise know nothing about.

6th. This query I have answered as to the weight per bushel, only the measured bushel, which, as near as I can say pointed, domestic salt will weigh from sixty-five to seventy, foreign ditto, from seventy-five to eighty-five.

7th. In selling by the barrel, thirty pounds are allowed for the barrel; if you take it by the nominal quantity, you pay seventy-five cents; but if you have it weighed, eighty-seven and a half cents is most common.

8th. As to the manner of selling, it is for money alone, and that in hand; no produce nor credit in the case will answer.

9th. It appears that there is no competition here; when there is a scarcity it is sure to rise, and plenty never brings it down lower than the above-stated prices.

10th. This query I cannot answer.

11th. As to domestic salt they will not receive beef or pork pickled with it, and it does not answer for butter for exportation.

12th. Beef nor pork will be received in New Orleans if put up in common salt.

13th. If any does go down put up in common salt, it has to be repacked with one bushel of alum salt for each barrel.

14th. I have long experienced the advantage of giving salt to stock of every kind; if I am working my horses, and they fail eating, give them salt or salt and water to drink; I discover it immediately restores them to their appetite, and they perform their labor much better. Through the winter I salt them twice a week, and through the working season every other day. I find it necessary to salt cattle through the winter once a week; they eat their rough food much better, and look better in the spring; and when the grass and herbs begin to put up, I find it necessary to salt every other day, and then through the summer twice a week, and have always noticed, if I neglected salting one week, my milch cows failed of their milk. I have some neighbors that seldom salt their stock at all, and I take notice that my cattle look as well in the spring as theirs do in the fall. Their reason for not salting they say is, that salt is so dear. Sheep and hogs require salt at any rate once a week through the summer; hogs put up fatten much better by being well salted.

15th. The advantage of salt for damaged hay I know is great. I have seen hay that looked like it was almost entirely spoiled, and when stacked up with salt, cattle eat it clean, and looked well; but salt selling so high as it does, prevents us poor people from having it by us even for the use of our stock and pickling up our meat, as nothing but money will get it. Go to a merchant, and ask if he wants any kind of produce; if he says yes—well, I will bring it at such a day—I want some salt to pickle up my meat, for I have got no money—his reply is, my salt is a cash article; I cannot sell it for produce. Well, I am obliged to have salt; if you will trust me a little while, I will pay you the money for it. His reply then is, I merely bring salt for accommodation; I make nothing on it; I must have the money down, or otherwise, will reply, I am selling on commission, and am obliged to have the money. On these terms I have known men to do without salt until they had suffered considerably for want of that article, unless they could borrow of a neighbor.

Honorable sir, if your interference in Congress can mitigate the matter, it will confer a very requisite favor on our neighborhood.

Mr. B., after reading or referring to these communications, which were given under the authors' names, stated that he had another of very material import which he would read to the Senate, but without the name. He had the less reluctance in doing this, because he had endeavored to give to the agent of the Kenhawa Company, who had been in attendance upon the other House during the session, an opportunity to answer. He had communicated the statement to a member of the Committee on Manufactures, whose name he was at liberty to mention, (Mr. J. S. BARBOUR, of Virginia,) for the express purpose of enabling the agent to answer it before that committee, but who had not availed himself of that opportunity.

Statement of a citizen of Kenhawa, furnished as anonymous, that he may not compromise his tranquillity, but with the names of the payers and receivers in the "dead well" system; the names being now omitted, as it is not the object of Mr. B. to interfere with individuals, but to expose a system.

"Dead wells are now common at the Kenhawa salines, and are giving to the place a dilapidated and melancholy appearance, and doing a real injury to the country. There are many of these dead wells, and monopolizers pay the owner for letting them remain idle. * * * and * * * receive about $1,500 per annum for two dead wells. * * * receives about $3,000 per annum for one. * * * about $1,500 per annum for another. Many others receive less or greater sums upon the same terms. Besides dead wells, there are also unborn wells, whose owners are paid for not letting them be dug. I know several of this kind. * * * receives $1,250 per annum not to dig a well on his land; * * * receives $1,500 annually on the same terms; * * * receives $2,500 per annum in the same way; and I have no doubt, many others, and it is all a thing of notoriety in the neighborhood. Before the monopoly, the price of salt was about a shilling a bushel, as it is called, and as often under as above that price, and it could be got for any kind of trade; since the monopoly, it is fifty cents cash, and none will be sold for retail to the people of the States, except to those who will bind themselves to avoid competition with the monopolizers at their depots. The company that monopolize the works are the chief shippers, and through their agents retail to the people in most of the Western States, fixing their own price, their own weight, and the quantity which each State is to have, except so far as they are interfered with by alum salt from New Orleans.

After reading, or referring to the extracts of evidence, taken before the Committee of the British House of Commons on the salt duties, and reading or stating the communications received by himself from citizens of the Western States, Mr. B. proceeded to make copious and extended remarks upon the uses of salt in agriculture and manufactures; the difference between the impure and inferior salt made by boiling well water, and the clean, pure, and crystallized salt made by the rays of the sun, in hot climates, out of the water of the sea; the variety of uses to which the well water salt was wholly unfit and inadequate; and the cruel injustice, on the part of the Federal Government, of expelling the pure salt from the country by an oppressive tax, which might otherwise be had both cheap and abundant, for the purpose of compelling them to use the inferior salt at an enormous and unconscionable price.

1. He remarked on the value of salt to stock, as proved by both the English and American testimony. It was proved that the health of all animals was preserved by it; and with this preservation of health, ensued all the advantages of increased growth and fattening, prolonged life, multiplied offspring; and superior flavor to the flesh, the milk, the butter, the cheese, the bacon, beef, and pork, which were made from them. In England, it was computed that the advantage to the stock from all these sources was 25 per cent. per annum. On one farm it

was rated at about 33⅓ per cent.; and the aggregate advantage, or rather the aggregate loss to the farmers for want of salt, was stated to exceed the annual amount of the tax, which was about 7,000,000 dollars.

2. He remarked on the necessity of sun-made salt for butter and cheese. If put up in common salt, the butter soon became rancid, and sold at less than half the price of alum salt butter at New Orleans and in the West Indies. He attributed the general inferiority of American cheese to the impure salt which was used in making it; and dwelt upon the articles of cheese and butter as sources of wealth to the stock-raising States, if duly improved by the use of pure salt. He said the exports of the last years had reached the value of $177,000 per annum; which, though considerable, was a trifle compared to the consumption in our towns, and the export to the Lower Mississippi. He considered the farmers as losing the one-half of their whole sales of butter and cheese, by using artificial salt, made by men, instead of using the natural crystallized salt, made by nature. To the cows on dairy farms, it was proved in England, that half a bushel of salt per annum was necessary; and the milk, butter, and cheese, all were richer and better flavored when that quantity, or more, was given. Common salt would do for the cows to lick; but alum salt was indispensable for butter and cheese that was to be long kept or exported.

3. In the article of bacon he estimated the loss at nearly one-half in using the fire-made salt. Such bacon would not sell for much more than half price in any of our market towns, and could not be carried to the Southern climates, or exported, without danger of spoiling, and becoming a total loss. Such bacon was often a drug in the market at New Orleans at two cents a pound, a mere refuse article at that price, while the alum salt bacon was a ready sale at six or eight cents.

4. In pickled pork.—For this purpose alum salt was indispensable. The artificial salt would answer no purpose. The poisonous ingredients called slack and bittern, which it contained, corrupted the pork in warm climates, and the soluble nature of the salt itself, by dissolving immediately, brought all the pieces in contact, and made each assist in destroying the other. The crystallized salt, besides being free from slack and bittern, is large in the grain, and so far insoluble that a layer of it remains for years between each piece of meat, and acting as a perpetual preservative. Mr. B. said that bacon might be made, after a fashion, with boiled salt; but pickled pork not at all. For that purpose, the sun-made salt was a *sine qua non*. For want of this salt, the Western farmers had got into the general custom of making bacon, whereby they lost about one-third of the product of their hog-stock; for the bacon dried and wasted near a third by the time it was sold, and would then sell for no more than pickled pork, which lost not an ounce in weight from the day it was put into the barrel till sold. A difference of one-third to be saved in the annual product of the hog-stock, would be immense to the farmers; and this difference would be saved by the repeal of the duty on alum salt.

5. In pickled beef.—For this purpose alum salt is absolutely indispensable. Beef could not be pickled without it; and, therefore, to find a market, the beef cattle were driven off upon the hoof. Mr. B. pronounced it to be a losing business, a most disadvantageous traffic, to any country to drive away its beef cattle to be sold on the hoof. The immediate loss in that operation was nearly one-half the value of the beef, and the whole loss of the hide, tallow, and offal; the consequential loss was, in the purchase of leather and manufactures of leather, and the purchase of soap and candles, and also in the loss of leather, soap, and candles for exportation. Pickled beef in New Orleans was usually from eight to twelve dollars a barrel, which was from four to six cents a pound. The farmers of the West usually sell their cattle at from 1½ to 2½ cents per pound; thus suffering a loss of nearly one-half on the beef; the hide and tallow, which is worth as much as the beef sells for at such rates, being thrown into the bargain, and given away. The disastrous effect of this suicidal business was seen in every town in the West, where foreign hides from South America, foreign leather, boots, shoes, and saddlery, and foreign soap and candles, from Europe and the Atlantic States, were daily exhibited for sale. Another disastrous consequence, but not so visible to the passing eye, was the loss of all these articles for exportation. The exportation of soap and candles had lately amounted to 912,000 dollars in the year; and of leather, boots, shoes, and saddlery, to 450,000 dollars. These exportations went from the Atlantic cities to the West Indies, and chiefly grew out of the gifts which the Western farmers made of their hides and tallow to the drovers. They were exportations which belonged to the West, not only because it produced the material out of which the manufactured articles were made, but it was the best place for carrying on the manufactory of them on account of the cheapness of provisions, and the facilities of exporting direct to the West Indies.

Mr. B. made a further illustration of the evils of driving beef cattle from the West, in its effect upon the internal navigation and domestic markets of the great valley. The Mississippi River was to the West what the Mediterranean Sea was to the Romans; it is *mare nostrum*—our sea—and the steamboats and other boats upon it constitute our navigation. The building of these vessels gives employment to a multitude of useful and respectable mechanics; creates a demand for vast quantities of wood, iron, paints, and glass; furniture of every description; daily supplies of provisions; wood for fuel, now estimated at a million of dollars

per annum; and for an immense number of persons to navigate and manage the boats. The aggregate of all these expenditures connected with steamboat-building and navigation, was several millions of dollars per annum, and was the most profitable kind of expenditure, for it was carried to the very doors of the people, and delivered into their hands in their own houses. Having drawn the picture of the advantages of steamboat navigation to the West, Mr. B. ventured to make the suggestion that they would be nearly doubled by substituting a change in the beef trade, from driving the cattle on the hoof to the Atlantic cities, to sending the beef pickled to New Orleans and the West Indies. Such a change would open a new and immense head for freight down the river, and a corresponding increase for freight back; for it was of the nature of exports and imports to emulate each other; it would produce diminished prices for under cargo, of which salt would be the chief; and a corresponding increase of every expenditure connected with the construction and navigation of steamboats. He then averred that this change, and the stupendous benefits resulting from it, depended solely and exclusively upon the free use of alum salt—upon the abolition of the duty upon that article—upon the simple and obvious process of permitting the Western people to use the salt according to their wants and wishes, which God had created for them in all the islands of the Gulf of Mexico. And he ridiculed with contemptuous sarcasm the affected alarms of those who expressed the fear that there would not be salt enough if the domestic manufactories checked their operations. He said it was a fear that there would be a failure of sunshine and seawater.

Having briefly touched upon the important uses of salt in agriculture, and especially for stock and provisions, Mr. B. proceeded to notice the disadvantages under which the farmers of the Western States labored with respect to that article. At the head of the list of these disadvantages, or oppressions, as they might with greater propriety be called, stood the appalling and astounding fact, that the whole salt trade of the West, so far as it depended upon the domestic manufactories, was one vast and cruel monopoly! The amazing fact was proved by a variety of testimony; it was known to every Western Senator present; it was felt at home in every department of agriculture, by all the farmers of the West. The baleful effects of this horrid monopoly were forcibly depicted by the witnesses whose communications he had read. Double price and scant measure; the whole country districted, allowanced, and stinted; ready money exacted; wells rented from their owners to lie idle; new wells prevented from being dug; overgrown fortunes to the monopolizers, privation, want, and suffering among the people and stock: such was the shocking and revolting picture which these communications presented to the Senate. Mr. B. animadverted in the most indignant terms upon monopolies of every species, and placed the salt monopoly at the head of the abominable and infernal list. He said this very monopoly was one of the causes which brought Charles the First to the block. Queen Elizabeth, though a petticoated tyrant, had the humanity, or rather sagacity, to suppress the salt monopoly, towards the close of her reign; for which act of mercy and condescension the whole Parliament went in a body to thank and bless her as an angel of beneficence. The bigoted Stuarts revived it, and paid the forfeiture in the loss of life and kingdom. There had been no monopoly of salt in England since Charles the First had lost his head; the States beyond the Alleghany Mountains were the only example of that oppression at this time existing in the civilized world. Mr. B. considered the present duty on foreign salt as the father and guardian of this domestic monopoly. He considered it the protector, defender, and supporter of the monopolists. He considered the act of Congress which kept up this duty, as the law which established this monopoly; and denounced such a law, not merely as odious and oppressive, but as a species of impiety and sacrilege, a species of revolt and rebellion against the providence of God, who had created salt, and spread it through the universe, for the use of man and beast, and as the preservative principle of life and health in both. The sea was filled with it, and the sun manufactured it. It came cheap and pure from that manufactory, established by Divine wisdom, and co-extensive with the bounds of the habitable globe. Salt was the preservative principle of the world. Every living animal must have it; every species of food must contain it. Without it, universal death and corruption would ensue. The disciples of Christ were called by their Master "the salt of the earth;" and that divine metaphor was intended to convey to the understandings of all people the knowledge of the preservative nature of their mission, a mission which was to save the moral world from corruption, as salt preserves the animal and material world. Laws to prevent any portion of the human race from using the pure and perfect salt made by the rays of the sun out of the waves of the sea, if enacted without a dire necessity, were impious contrivances to frustrate the beneficence of God. A war for self-preservation alone could justify such laws. They had existed in all countries, and had run highest where human liberty was at the lowest ebb. They are now disappearing, vanishing, and falling before the recuperative energies of popular rights. The *gabelle* fell, in France, before the march of revolution. In England, this unnatural tax, after attaining the monstrous height of fifteen shillings a bushel, sunk and disappeared before the labors of that pre-eminent committee from whose reports a few imperfect and mutilated extracts have been read. The salt tax disappeared from the United States about twenty years ago, during

the auspicious administration of the immortal Jefferson. Even Spain, the last country upon earth in which to look for a liberal example, was an instance of the generous use of salt. The United States alone are now presenting the example of keeping up this odious tax, of keeping it up without necessity, of keeping it up for the oppression of the people, for the protection of monopolizers, for the impoverishment and degradation of the West. But let the people not despair. Relief, though out of sight, is sometimes near at hand. The darkest hour of the night is that which precedes the break of day. In England, in 1801, the first attempt of the friends of the people to reduce the salt tax, was followed by the insult and outrage of raising it. The Pitt administration, to punish and intimidate those who proposed the abolition, immediately raised the duty from ten to fifteen shillings a bushel; but they raised the spirit of the people at the same time, and in a few years the whole oppressive burden fell to the earth.

Resulting from this monopoly, thus established and protected, came the present enormous price of salt. Mr. B. begged Senators to recollect the testimony he had read, and reflect in how many places the sum of 75 cents, or a dollar, or a dollar and a quarter, was exacted from the people for about two pecks and a half of inferior, fire-made, artificial salt, imposed upon them under the scandalized name of a bushel. If the duty was off, he would venture to affirm that the price of pure, sun-made, crystallized salt would not exceed a *picaillon* for a real bushel at New Orleans, and three or four *picaillons* in the central parts of the valley of the Mississippi. His calculation was this: that the import price of this fine salt was, at present, six cents for that of Malta; eight cents for that of Spain and Portugal; nine cents for that of Turk's Island; and that, in the vast increase which the foreign salt trade would assume, and the reduced price of the salt from Turk's Island, (a British possession,) in consequence of the direct intercourse with that island, or rather with the five hundred Bahama islands, of which it is the chief, the average price at New Orleans would be six and a quarter cents; freight for salt, as under cargo, was now about one-third of a cent per pound, and would soon be brought by the great boats, during the spring floods, for one-fourth of a cent. Thus would the price of alum salt, at Louisville, be reduced to about 25 cents a bushel. Low as this would be, a great proportion of the Western farmers would get it on still better terms. Thousands of flat-bottomed boats made without expense, navigated without skill or labor, loaded with every conceivable production of the farm and the forest, and descending from all the confluent streams of the Mississippi, visit New Orleans every winter. The owners are their own factors and commission merchants. They sell out the contents of their boat (which, moored to the levee, and labelled with its contents, serves for warehouse, kitchen, parlor, and bed-room) in the course of the winter months, when they could do but little at home; buy their groceries in the spring, step on board a steamer with their family supplies, and, for six dollars, are at home in eight or ten days, ready to commence the new crop with the return of the vernal season. To all such the acquisition of two or three sacks of pure and perfect salt would be nothing but the exchange of a few loose vegetables, which would have rotted at home.

Mr. B. maintained that the salt tax fell heaviest upon the laboring classes, and upon the poor. They used most salt in proportion to their wealth, and bought at a disadvantage, because they bought in a pinch, in small quantities, at retail prices, raised the money to buy it at a sacrifice, and were most subject to be imposed upon, both as to weight, quality, and price. It was so in England; it is so here. Look at the English testimony! It tells you the tax was harder upon the peasant than the nobleman. Look at the American testimony! It tells you that the people in remote places—the small farmers, remote from great towns, had to pay the highest prices, received the scantiest measure, and suffered most from extortion and imposition. It was in such places, and among such customers, that the weighed bushel of fifty pounds would find ample accommodation for lodging, in a half bushel measure; that the old rusty steelyards were used, that would not preponderate for ten pounds in fifty; that the deficient barrels were obliged to be taken at the marked weight; and that the extortionate prices of one and two dollars for these scant weight bushels, equal to two and four dollars for real measured bushels, and that for well-water salt impregnated with poisonous ingredients, and only half the strength of sea-water salt, were actually paid by the helpless people, and received by the relentless monopolizers! And yet, in the face of these damning facts, in the midst of the cries of these suffering people, there is a scheme on foot, not only to resist the reduction, but to effect the increase of this diabolical tax! to raise it from ten to fifteen cents.

[Here Mr. B. alluded to the bill in the House of Representatives, to increase the salt tax, and thought this bill ought to be proclaimed throughout the West by a herald and a trumpet, to rouse and alarm the people, and to put them on their guard against the dangers it portended.]

Resulting from this monopoly, and the most degrading of its consequences, was the power to allowance and district the country for the consumption of salt. The Western country was districted and allowanced. All the witnesses prove the mortifying fact. Depots are established, and agents appointed to supply each district. No competition is permitted. No competition can come, except from New Orleans, and that in the season of high water. To prevent the fulness of the supply from operating on the highness of the price, the invention of "dead wells" was made, and a multitude of

wells, rented from their owners, have been permitted to stand idle. Nay, more; a further exertion of this invention has exhibited the prodigy of wells suppressed—of unborn wells stifled in the womb of the earth by hiring and paying people not to dig for their salt water! The consequence of these enormities was, stint in the supply, excess in the price. The country was starved for salt, and made to pay double, in many places quadruple its value. The domestic supply is not equal to one-fifth of the demand. The whole quantity made in the United States, as proved by the returns of the salt-makers themselves to the Secretary of the Treasury, does not exceed five millions of bushels; while the consumption of the country would require thirty millions. The whole product of the West, including Western Pennsylvania and the Holston works in Virginia, do not exceed two and a half millions of bushels, weighed bushels; each of which bushel, with a little packing and heaping, would comfortably establish itself in a half bushel measure..

Mr. B. believed that the stock alone of the United States would require twenty millions of bushels. He bottomed his estimate upon the consumption in England. It was there proved that the stock, independent of the draught horses, and hogs, which had not been included in the estimate, required twenty-two millions of bushels, fifty-six pounds to the bushel, to supply them annually. He felt mortified to know the number of stock in England, for he was speaking of England proper, and not know the number in the United States. He regretted that the return of stock was not included in the census—in the census made by State authority at all events—and especially in the West, where stock constituted so large a proportion of the wealth of the people. In the absence of accurate information, he must proceed upon probable data; and, as the United States was more populous than England, ten times more extensive, and the keeping of stock more easy, he would assume the stock census of England as furnishing, not the criterion of numbers, but the data for calculation; the sheep of the United States being probably one-third, cattle and horses doubtful, and hogs far more numerous. Assuming this calculation for the relative number of stock, the necessity for salt was greater: for the use of green food, and especially wild grass, was more usual in the United States; and this grass was more fresh, or free from saltness, because, the United States being a continent, and not an island, the saline dews which corrected the freshness of the grass, did not extend to the interior States. Assuming the sheep of the United States to be one-third of the English flock, to wit, ten millions of head, and allowing to each sheep the English supply, of half a pound a week, which made half a bushel a year, and it resulted that the sheep alone of the United States required five millions of bushels of salt per annum! being just as much as the domestic manufacturers made! so that if the population of the Union should be thrown on the domestic supply, and the sheep supplied first, there would not be one grain left for the hogs, horses, cattle, people, and the thousand uses beside, for which salt is indispensable! So much for the domestic supply! It had been computed in England that the supply of salt to the sheep was the saving of six hundred thousand head from dying annually; the loss of Western stock for want of salt cannot be estimated. But it is a point for Western farmers to think of. Let each one make the computation for himself, and consider what his annual loss is in cattle, hogs, sheep, and horses, for want of this condiment to their food; this medicine for their health, this attraction against running wild; and then estimate, if he can, the annual aggregate loss of the nine Western States and Territories.

Mr. B. affirmed that the stint of salt was universal in the West; that it extended to all the operations of the farmer; that it even extended to the pots and tables of the poor! He believed that such an instance of stint, for a necessary of life, did not exist among the negroes of the West India islands. He believed that those negroes received from their masters, cruel as many of them were, a larger and better allowance of salt than the average of Western farmers received from the inexorable monopolists. He said the entire West was a stock-raising country. The farmers there, like the patriarchs of old, estimated their wealth, in a great degree, by the number of their flocks and herds. Before the invention of steamboats, this rich vein of wealth was but slightly and imperfectly developed. Want of salt prevented its development. Common salt could not be had in sufficient quantity for salting the stock. Not a pound of alum salt could be had for curing bacon, preserving butter and cheese, and pickling beef and pork. Foreign salt, of no kind, could enter the vast and fertile regions of the West. Freight, up the Mississippi, in keel boats and barges, was seven or eight cents a pound—across the Alleghany Mountains, in wagons, was as much or more; and then commenced, from hard necessity and from absolute want of alum salt, the pernicious and impoverishing practice of driving off beef cattle on the hoof. But steamboats furnish the means of relieving this necessity, of supplying this want, and of terminating this pernicious practice. They are bringing salt from New Orleans at so low a freight, that, if the duty was off, the price to the purchasers, in the central parts of the Great Valley, and that of the pure sea-made salt, would not exceed twenty-five cents per bushel; while, to those farmers who trade down the river, the price could not exceed three picaillons. This cheap importation of cheap salt—this unlimited means of importing it at the one thirty-second part of its former freight, was the greatest blessing of all the great blessings which the wonderful invention of steamboats had conferred upon the West. It was

the very thing which was lacking to give full development to her richest vein of wealth—richer than the mines of Mexico and Peru—her stock and provision trade! Providence, of its infinite goodness, and to crown the blessings of the great West, sent this miraculous invention to give us that alone which was wanting, and never could have been got without it; the pure muriate of soda; the natural crystallized salt; the native unmixed product of the sun and sea; the salt of Divine manufactory; as much superior to artificial fire-made salt as the works of God are superior to the works of man! Upon the dispensation of such a Providence, it was to have been expected that the Federal Legislature, to whom the whole power of regulating foreign commerce had been assigned by the States, whether wisely or not, time, and, above all, the continuance of the salt tax, will show, it was to have been expected that the Federal Legislature (that part of it at all events, which assumed to be the particular friends of domestic industry) would have given all possible aid to the importation of this Heaven-sent salt. A bounty in favor of the ships which brought it, would have rested upon the same constitutional construction, and upon infinitely greater reasons of justice than a bounty in favor of vessels which bring home fish. The greatest exertions might have been expected for the encouragement of this importation. Every reason which the head could conceive, or the tongue could utter, sprung forth in favor of the encouragement; not a single reason that craft and cunning could devise, could be arrayed against it. The whole vocabulary of the "American system" furnished not a word against it: for that system rests upon the basis of making at home, and furnishing to the citizen, the same article, better and cheaper than the imported one! Well, alum salt, which comprehends all crystallized salt, (and all salt made by the sun, and none other, is crystallized,) alum salt is not made in the United States, (a little in the Northeast excepted,) not a pound of it is made in the West, nor any rival to it, nor substitute for it. By consequence, it could not be made cheaper and better at home! The "American system" was for it, instead of being against it, unless it is intended to exclude the industry of the farmer, who raises stock and salt provisions, from the industry to be protected by that system. A bounty might have been expected in favor of every ship that should bring sun-made salt to New Orleans. Instead of that, what have we seen? Federal legislation actually employed to keep this salt away! A hostile and repulsive tax of twenty cents imposed upon every eight cents' worth of this indispensable salt! A requisition upon the ship that brings it, to pay twice and a half its value into the coffers of the Federal Government before that ship is allowed to land it! Bond and security required, when the money cannot be paid down! And this security to be exacted from strangers who have crossed the wide seas to exchange their surplus salt for our surplus provisions! And, in consequence of these heavy and merciless exactions, most of the ships bring stones instead of salt—forced to bring stones by the Federal Government, and realizing the compulsive illustration of the strongest reproach contained in the sacred pages of the Holy evangelists! They would bring salt for ballast in preference to stones, if the laws would permit them. Many that bring salt, throw it overboard, in the mouth of the Mississippi. When no longer needed for ballast, they throw it into the river, because they are neither able to pay the duty in ready money, nor to give the security which the credit system requires. Is this imagination, or is it reality? It is reality! And no longer ago than the last summer, the troubled waves of the Mississippi, and the dark shades of midnight, were the conscious witnesses of this lamentable fact, of this dire operation of taxing salt out of the land of America! Mr. B. said he had heard of this sacrifice; this new species of immolation, not to propitiate the genius of the river, but to appease the infernal genius of the salt tax, soon after it happened, and had laid it up in his memory for verification. That verification was quickly received; for on his passage to this city, in the month of November last, he fell in at Louisville, Kentucky, with the surveyor and inspector of the port of New Orleans, Major Spotts, formerly of the army, and lately approved by the Senate both as a military and civil officer, and from him received a confirmation of the fact. Two ships, Major Spotts was certain, had thrown their salt overboard; others he suspected of having done so! These ships, thus encountering the risk of forfeiting their cargoes, and incurring all the penalties of violating the revenue laws, in addition to the loss of the salt, because they could neither pay the duties, nor give the security, nor find anybody to receive the salt as a gift, with a tax of twenty cents a bushel upon it! At that very moment the whole interior of the West suffering for salt! And for whose benefit are these oppressions practised? For the benefit of a few hundred monopolizers in the West, and a few thousand fishermen in the Northeast! For their benefit, the repeal of the odious tax is not only resisted, but an increase of the oppression is actually demanded!

Mr. B. drew the line of distinction between good and bad salt. It was a line easy to be drawn, for it was the line between the works of nature and the works of man. All salt that was made by boiling, no matter out of what water, was impure and imperfect; for the agitation and the heat prevented crystallization, and retained the poisonous ingredients called slack and bittern; all salt made by the power of the sun was pure and perfect; all the poisonous ingredients having settled to the bottom, and the salt itself forming into lumps by concretion and crystallization. The artificial salt, made by boiling, is good for many purposes; for salting

stock, preserving hay and fodder, for daily use in fresh meat and vegetables; and, by help of much smoke and long drying, will save bacon for family use. The natural, sun-made salt was indispensable to pickling beef and pork, and to curing bacon, butter, and cheese for exportation, or the Southern markets. It was of the tax upon this latter kind of salt that he complained so much; a kind of salt so indispensable to the provision trade of the West, and so impossible to be made by the domestic manufacturers. To this part of the argument he invited, and invoked, and almost defied, the response of his opponents. The fire-made salt would not answer the great purposes of the provision trade. It could not be used by the provision-curers, if presented to them as a gift. Sun-made salt alone would answer. It must be had, cost what it may; and a tax upon it was an oppression upon the people, without the possibility of producing a domestic supply of the same article. The domestic salt would not answer! All the testimony proved this great and cardinal fact. He would not recapitulate that testimony; but would refer to the circumstance mentioned by the honorable Mr. Lyon, of the House of Representatives, and of which he, Mr. B., was also witness—that of alum salt delivered at Maysville, in November last. This salt had crossed the Gulf of Mexico. It had ascended the Mississippi, in a ship to New Orleans; then to Louisville, in a steamboat; then to Maysville, in a keel towed by a steamer. It had traversed a thousand miles of gulf, and nineteen hundred miles of river navigation, to reach its point of delivery; and that point in the immediate neighborhood of the great Kenhawa salt works! there to be employed in salting Kentucky pork for exportation, or Southern consumption! How overwhelming and conclusive the bare annunciation of such a pregnant fact! And that no circumstance might be lacking to complete the power of this impressive argument in favor of foreign salt, the company's own steamboat brought it! Thus making themselves public and unanswerable witnesses to the total inefficacy of their own salt, and the absolute necessity of using the foreign!

Mr. B. insisted that the burthen of the salt tax upon the West was aggravated by contrast; for in the Northeast there were drawbacks, bounties, and allowances which more than indemnified the fishing interest for the proportion of the tax which they paid. They were allowed to draw out of the Treasury, at the end of each year, as much money as had been paid, or supposed to have been paid, for duties on the salt employed in curing fish; and under this system of drawbacks and allowances, upwards of five millions of dollars had already been drawn. The vigilant Secretary of the Treasury (Mr. INGHAM) had discovered large frauds in this business, say to the amount of fifty thousand dollars in a single year; but the laws were yet in force; and while they continued, the leak from the Treasury on this account must still amount to a quarter of a million of dollars per annum. The Western States were allowed nothing in the way of drawback of duty on the beef and pork exported by them. These States, therefore, felt the unmitigated weight of the tax, while to their friends in the Northeast it was actually a money-making business. This was unequal and unjust in the extreme. The constitution declared, and, if it did not, the first principle of equity would declare, that taxes should be equal and uniform throughout the Union. But this equality was destroyed when the tax was refunded to one quarter and not refunded to another. It was the same thing as if, in the law imposing it, the levy of the tax should be by sections, omitting one section entirely from the operation of the levy. It would be better in this case to levy by sections, because it has been proved at the Treasury that a certain section draws back more than it pays—more than it would have been exempted from, if the levy had not reached it. This business of refunding the salt tax to a part of the community, proves the impolicy of levying it at all: for if it is refunded to a part, justice requires it should be refunded to all; and, if it be refunded to all, where is the sense in levying it? The people of the Northeast, with whom salted fish is a predominant food, have a drawback of the duty allowed them; the people of the South and West, with whom salted bacon is a predominant food, have no drawback; and thus the operation of the law is unequal as well as oppressive. The remedy for the whole is to abolish the tax, and all the superstructure of drawbacks, bounties, and allowances, which rest upon it.

The farmers, continued Mr. B., are the class most interested in the abolition of this tax; they feel it to the quick; and he could not allude to that meritorious class of citizens without the deepest feelings of sympathy and concern. They were the soul and body of the country. Their labors supplied all the elements of subsistence to man and beast. Their names were to be found upon every list of contribution to the public service. They were found upon the tax list, the muster roll, the jury panel, the road list, the bridge list, and every other list which exacted the payment of money or the performance of service. There was but one list on which their names were not to be found, and that was the list of office! Farmers and offices seldom get together. Their station in the body politic was, front rank for service, rear rank for reward. Surely, a body of men so numerous, and so meritorious, so ready to do, and to suffer for the Government, and so backward to ask favors from it, ought at least to be uninjured by the Government. Laws should not be made against them, if they are not made for them. Fair play, at least, should be their portion. The "*laisses nous faire*"—"let us alone"—should be their ready granted prayer. Yet, how stands the account with the Federal Government? Their produce loaded with

duties in foreign countries—virtually excluded from many of them—by the total failure of Congress to make any attempt to regulate foreign commerce according to the power granted in the constitution, and the declared intention of the States in conferring that power upon Congress! An indispensable ingredient, not only in their wealth, but in their living, and only to be obtained from abroad, loaded with the duty of three times its value, before they can use it at home! The Gulf of Mexico is saturated with the purest salt. Two thousand islands abound with it. The Bahamas alone, about five hundred in number, of which Turk's Island is the chief, lying in the very channel to New Orleans, could glut the valley of the Mississippi at a picaillon a bushel. These islanders want our provisions; we want their salt; but the Federal Government gets between the parties, and, by a total neglect of the power to regulate foreign commerce, and a manifest abuse of the power to lay duties, obstructs and prevents the natural and beneficial exchange of commodities to which the wants and superfluities of the respective parties so powerfully attract, and so urgently invite them. The same with land. The Federal Government has got all the land. Invested with the whole domain by the improvidence of the Southern States, it becomes the dog in the manger, and refuses to let the farmers have for its value what itself cannot use. But, to confine these reflections to the matter in hand: The Gulf of Mexico is full of salt; the Western farmers want it; they are debarred its use; and that by a Government whose taxes they pay, whose battles they fight, whose burdens they bear, and whose favors they seldom receive. We have a Committee on Agriculture, so styled, at least, whether by way of antithesis was not for him (Mr. B.) to say; certain it was, the name, if not the design, of the committee should have put them at the head of all the measures for the abolition of the salt taxes, and reduction of the price of refuse lands. He felt himself to be doing the business of that committee, and hoped they would soon be found fellow-laborers and co-operators together.

Farmers, and all the departments of agriculture, are the chief sufferers by the salt duty; but they are not the sole sufferers. Manufacturers suffer also; and it was computed by Sir Thomas Bernard, one of the witnesses examined by the Committee of the British House of Commons, that the manufacturers of England were annually injured to the amount of the tax derived from salt. Various manufacturers require this article, either in its proper shape, or as a chemical preparation. The hard soap alone made in England was computed to require two thousand tons of mineral alkali per annum; and this alkali is obtained by a chemical process, either from salt in its proper state, or from the salt contained in barilla and kelp. To procure two thousand tons of alkali must require a much greater number of tons of salt. The barilla only yields seventeen per cent. of alkali, and kelp six per cent. The decomposition of the salt itself is the cheapest mode of procuring the alkali; and this salt is taxed two or three times its value in the United States, so that the Federal Government has actually established a tax upon cleanliness! for, without soap, people cannot be clean; and, without salt, they cannot have soap. The Committee on Manufactures ought to pursue this subject. Their learned labors, their scientific researches, their practical knowledge, their access to the fountain heads of information, their zeal in the cause, would enable them to give in a list of some fifty manufactures in which salt, or its chemical preparations of alkali, muriatic acid, oxy-muriatic acid, sal ammoniac, &c., &c., &c., is indispensably necessary. To that committee is resigned this branch of the subject; and the confident belief may be entertained that, at the proper time, this zealous committee—this committee no less capable than zealous—will come forward with a mathematical demonstration to prove that the salt tax is an injury to manufactures to the full extent of its own amount, say a million of dollars per annum; and that the prosperity of manufactures loudly demands its total and instant repeal.

Every interest cries aloud; the joint interests of agriculture and manufactures clamor together for the repeal of this tax. It is a tax upon the entire economy of nature and art, upon man and upon beast, upon life and upon health, upon comfort and luxury, upon want and superfluity, upon food and raiment, upon washing and cleanliness! A tax which no economy can avoid, no poverty can shun, no privation escape, no cunning elude, no force resist, no dexterity avert, no prayers can deprecate, no curses repulse! It is a tax which invades the entire dominion of human operations, falling with its greatest weight upon the weakest and most helpless. It is the tax which tyranny invented, in the worst ages of the world, to force from the cultivator of the soil, to wring from the clenched fist of penury, to extract from the mouth of hunger, the last unwilling contribution of vassals to lords. The tories introduced it into England above a hundred years ago. Our necessities compelled us to resort to it, in a small degree, at the commencement of our Government. The Federal Administration of 1798 ran it up to its highest amount. Jefferson overthrew it. The war of 1815 compelled us to resort to it again. Now, we have no war, no Federal Administration, no necessity, and the disciples of Jefferson are in power. The English whigs have overturned this tory tax in England; cannot whig republicans overturn it here?

Mr. B. repeated, with energy and emphasis, and wished to fix the attention of the Senate, and of all America, fully on the circumstance, that the British Parliament had totally repealed the salt duties of Great Britain. The information collected by the Committee of the House of

Commons, in 1818, effected the immediate overthrow of these duties. The King's ministers withdrew their opposition, impossible as it was for the treasury to do without the product of the duties, and difficult as it was to find a new article of taxation on which the amount might be levied; but they withdrew their opposition, and the bill for the repeal went through both Houses without further debate, and received the approbation of the King the next day. This is what was done upon the prayers of the people, in a country where the people are very imperfectly represented in one branch of the Legislature, not represented at all in the other, and where the chief magistrate who approves the act is an hereditary ruler; where the necessity for the tax was urgent; where the domestic supply of artificial salt was abundant; where the manufacturers of this salt clamored for protection; but where the voice of the people was heard, and every minor interest made to yield to that sacred voice. He quoted this example, and dwelt upon it: for he held it to be impossible that the republican Congress of the United States, without a single restraining motive which operated in Great Britain, could refuse to do for the people of the United States, what King, Lords, and Commons had done for the subjects of the British Crown.

Mr. B. then explained the provisions of his bill. He said it proposed, in the first place, to make the reduction to ten cents (now provided for by law) take effect on the first day of April ensuing, instead of the last day of December next. The last day of December happened to be the most unfavorable season that could be found in the whole year. It was "the day after the feast." Hog-killing time, which created the great demand for salt, was just over, so that the duty was kept up to the very moment that it pressed hardest. The true season for the reduction to take effect was the spring, the month of April, when the rivers of the West were all flooded, and the returning steamboats, and the citizens who had gone down to New Orleans on trading voyages, could bring up supplies for the ensuing fall. The second reduction in the bill was to take effect in April, 1832, and the duty to cease entirely in April, 1833—requiring about two years to complete the entire abolition of the tax. This was a slow process compared to what took place in Mr. Jefferson's time. The whole tax was then abolished at two reductions, and both made in one single year; and, while that great friend of the people remained at the head of affairs, no more salt tax was heard of in America. Mr. B. hoped that this would soon be the case again; that two or three years more would exhibit this favored land emancipated from the salt tax, and enable every farmer to give food to his family, salt to his stock, and send his provisions to market, without paying a daily and hourly tax to the Federal Government.

Mr. B. would make no apology for detaining the Senate on this subject. He knew it was felt by many as an intrusion. Other operations had gotten into fashion, and suffered impatient interruption, while an hour's attention was claimed for the people. Still he would make no apology. He stood upon his rights, which gave him authority to discuss the affairs of the people. He took post upon the words of the constitution, which created the Congress for the express purposes of legislation. He knew himself to be backed by those whose backing was worth having; he felt himself to be cheered by those plaudits which were unbought and unpurchasable. He should proceed as long as he felt that backing and heard that cheering. He would proceed, with the blessing of God and the approbation of the people, until two great objects should be accomplished—till the salt tax was abolished, and the price of refuse land reduced!

Mr. SMITH, of Md., made a few remarks on the subject. He said that he was in favor of repealing the duty on salt, and had already introduced a bill repealing the duties on that article, among many others; but that he should be compelled to vote against the bill unless amended, inasmuch as it contemplated a repeal of the duty on alum salt alone, which was produced nowhere but at Turk's Island, while salt imported from all other places, England in particular, would be excluded from its benefits.

Mr. BENTON rose to reply, when he was interrupted by the PRESIDENT, who gave it as his opinion that the bill could not, according to the rules of the Senate, be introduced while there was a bill, the one noticed by the gentleman from Maryland, contemplating the same measure, lying on the table.

Mr. BENTON replied, that the bill he sought to introduce was for the repeal of the duty on a particular kind of salt, alum; while that of the gentleman from Maryland, was to repeal the duty on salt in general. He, therefore, thought the measures were essentially different.

The PRESIDENT decided that the object of both bills as to the article of salt, was precisely the same; and that the leave asked by the gentleman from Missouri was not in order.

Mr. BENTON said he felt so confident of the correctness of the opinion he had formed, and so deeply impressed with the importance of the measure, that he must appeal to the Senate from the decision of the Chair.

Mr. HOLMES asked for the yeas and nays on this question; which were ordered.

Mr. HAYNE observed that the question of order which had just arisen was a new and important one. As he, and he believed other Senators, wished an opportunity to examine into the rules of the Senate before voting on the question, he hoped the subject would, by general consent, be laid on the table; which was done.

WEDNESDAY, February 9.

Mr. GRUNDY said that, at the last session of

Congress, a report was received from the Postmaster General, and, in consequence of the absence, at the time of its receipt, of the gentleman who made the call, it was laid on the table. He now moved that the report be printed for the use of the Senate. The motion was agreed to.

Post Office Department Investigation.

The resolution declaring that the Select Committee appointed to examine the present condition of the Post Office Department, were not authorized to call before them persons removed from office, for the purpose of ascertaining the causes of their removal, was again taken up.

Mr. HENDRICKS (another member of the Committee of Inquiry) next rose. He said he would detain the Senate with a very few remarks; and, but for a notice by the chairman, of certain proceedings of the committee, when he was not present, he did not know that he should have mingled at all, at this time, in the debate. Absence from the committee, at any time, might, unexplained, be considered a dereliction of duty, with which he did not feel himself in the least degree chargeable. It was well known to the chairman, as well as to the other members of the committee, that, previous to any knowledge of the meeting alluded to, he had been notified to meet the Committee on Indian Affairs, a standing committee of the Senate, of which he was a member. This fact he had communicated to the chairman of the Select Committee, before the meeting had been called. This much he had thought proper to say, in explanation of the reasons of his absence from the committee that morning.

It was not his purpose, said Mr. H., to go into an examination then of the condition of the General Post Office, for that was a duty confided to the committee, which had not yet been performed; that, on the fragments of testimony as yet before the committee, he, for one, would not form any definite opinion, and he would not prejudge the case. The committee had closed the testimony on no one single point. The testimony of Abraham Bradley, the first witness, had not been closed. Mr. H. here spoke of the late Postmaster General, and said, that of him he had a most exalted opinion. He believed him to be an honest man; an upright and efficient officer. He remarked that as to the present Postmaster General, he would not, at this time, pass either censure or eulogy; that in doing either he should feel himself prejudging the case before the evidence had been heard. The committee had a large field before them; had taken as yet but little testimony, compared with that thought necessary; and that so far there was no testimony before the committee to criminate the Postmaster General. This remark he thought proper to make; for, from the journal of the committee, frequently referred to, he had been seen voting very broad, and almost unlimited inquiries, answers to which might seriously implicate the Postmaster General; inquiries of which the Senators from Tennessee and New Hampshire had complained to the Senate. He had, at the instance of the chairman, voted interrogatories, based on the allegations of persons unknown and unnamed to the committee; he had sanctioned questions which did not appear to him very necessary, because other members of the committee thought them so, and it was proper for him to say that this course was not based on any testimony given to the committee, of existing maladministration in the department, but was taken in order to give free and expanded scope to the examination, that misdemeanor, if it existed, might be ferreted out, or, that rumor with her hundred tongues might be hushed into silence. Justice required this to prevent erroneous impressions from the course he was pursuing; and while he thus acted, and should now vote, against the proposition of the Senator from Tennessee, and wish the inquiry to progress, he should feel himself bound, now, and at all times, to do justice.

He was somewhat surprised to hear the proceedings of the committee thus far exhibited before the Senate; for it had been agreed, that until they should be given in the form of a report, they should remain exclusively with the committee. But of this he would not complain, for every thing done by him in committee had been done from the house top, and nothing for concealment. The chairman, however, had thought proper to suggest, and somewhat in the tone of complaint, that a modification of one question, calling on the Postmaster General for the causes of removal, had been made. He says that, in the interrogatory referred to, the causes of removal, in each individual case, are not required, and that the Postmaster General is requested to classify the causes for brevity's sake. Mr. H. said he had voted for this modification, wishing to make a report at the present session, and believing that without the modification it would be impossible for the Department to answer the call before the 4th of March. How correct he was in that opinion, the communication from the department to the committee would show.

In conclusion, Mr. H. said, that the whole matter had confirmed him in a belief of the correctness of his vote, originally given, for referring this examination to the standing committee. That was the committee which ought to have been charged with this duty. With the affairs of that department, the standing committee must necessarily be more familiar than the Select Committee could possibly be. It was their ordinary business and duty to examine into and understand the condition of the General Post Office. To a Select Committee the whole business was entirely new.

From what had been said it would readily be seen that the committee were employed in a most laborious examination; and should the Senate pass the resolution of the Senator from Tennessee, the committee would be relieved

from much of its burden. He could not, however, vote for the resolution. He entered upon the duties required of the committee with great reluctance, but, having proceeded thus far, he was inclined to go through. Let us not, said Mr. H., waste the time of the Senate in debating the matter now. The Senator from Delaware was the first who moved in this business. He had repeatedly said that there was good reason for believing in the maladministration of the department, and said, let us have light. He would not undertake, at this time, to say any thing about the maladministration of the department, but with the Senator from Delaware he would vote against the resolution before the Senate, and proceed in the business of the committee. He would not consent to stop at the present point, and publish this discussion to the world, to become a political text-book, instead of authentic facts and testimony. Something had been said in committee about large extra allowances to contractors in this neighborhood. This allegation he wished to inquire into. Suggestions, too, had been made of similar improprieties in the State he had the honor to represent. This matter he wished to know all about. He was anxious to know if there were any serious evil in the department; any thing seriously to militate against the passage of the post route bill, now, and last session too, before Congress. The department should, if possible, sustain its own weight. He was far, however, from believing that it ought to be looked to as a source of revenue. Intelligence, and the convenience of the people, were its chief objects. He was anxious that the post route bill should pass, and for one, if that measure were necessary, he would vote an appropriation to meet the expense. It was his wish that the new settlements of his own State should be supplied with the mail, and in that point of view felt an interest in the whole matter which others might not feel.

Mr. CLAYTON again took the floor. It is, said he, with unfeigned reluctance that I rise for the purpose of again engaging in a discussion of a resolution of the honorable gentleman from Tennessee. Laboring as I do at this time under considerable indisposition, it would be much more agreeable to my feelings, if consistent with my sense of duty, to suffer those who originated this debate to "form their political text-book for the year," as the gentleman from Indiana has phrased it, without any attempt on my part to mar its beauties or correct its errors; but the remarks which I had the honor to address to the Senate on this subject have been so grossly perverted, and the real state of the funds of the Post Office Department, as they appear from the documents before us, has been so incorrectly represented by the members from New Hampshire and Tennessee, (Messrs. WOODBURY and GRUNDY,) that I am again compelled to trespass upon the indulgence of this honorable body.

His (Mr. GRUNDY's) reasoning to screen the Postmaster General from this investigation proves too much. It would prevent us from examining the conduct of all those subordinate officers of this Government, who are as liable to impeachment as the President or chiefs of departments. The gentleman from Maine has justly remarked that the Senate is, for some purposes, a judicial, for others an executive, and for others a legislative body. It exercises all the powers incident to each of these capacities, independently of others. Was it ever heard that the Senate forbore to council and advise the President in their executive character, because they might thereby prejudge matters which, by possibility, might afterwards be submitted to them as legislators? Should we refuse to hear a word to convince us of the necessity of passing an act to prevent, by increasing the penalties for extortion in our public officers, because we might be called upon to try them as judges? Did we refuse to decide in our judicial capacity a question of contempt, because such a bill as has since been introduced, to regulate the law of contempt, might be brought before us? The argument, if it deserves the name of one, would subvert the power, and obstruct the whole action of the Senate. In all such cases the objection of prejudging is met and crushed by the antagonizing consideration, that our duty to the people, and our oaths to support the magna charta of their liberties, require of us to close every avenue against the possible abuse of power, and to expose and restrain every encroachment upon their rights. Sir, there are, perhaps, a hundred cases appearing on our records, in which inquiries have been made here into abuses of the Government, for the purposes of legislation; and it is not too much to say that this is the first time, in the history of this body, when such an objection has been advanced to screen a public officer from a fair and full investigation of the principles which have regulated his official conduct. It is no less striking than novel, too, that the friends of the Postmaster General should betray such great sensitiveness, lest the examination of the committee should lead to his impeachment. When that committee was appointed in the early part of this session, it was vauntingly urged by his friends here, that they defied the investigation, and courted the inquiry. Their cry was, "none but the galled jade winces." "Examine every thing and you will find all right." The original resolution directing the inquiry into the entire management of the department, was adopted with an air of triumph, though the anxiety to avoid the scrutiny of a Select Committee did not very well comport, as I thought then, sir, with the lofty and sounding phrases which accompanied it. When the trial begins, we see that a new light is suddenly shed on the question then decided. A part of the power which was delegated to the committee, must be now revoked. The light begins to shine too brightly, and the cry is, we are afraid you will disclose impeachable matter. In other words, the fear is, that the

Postmaster General has so grossly violated the law and the constitution, that if we suffer your committee to examine his principles of official action, with a view to restrain him, we may be compelled to try him on an impeachment! I will not deny this, sir, because it has, doubtless, been permitted to these gentlemen to learn much more of the secrets of his department than myself; and, as I do not love to contradict gentlemen when I can avoid it, I agree that the apprehensions they express may be well grounded. If the proof be not arrested a scene of barter and smuggling for office may be disclosed, the like of which never before disgraced this or any other country. It may be that the people will stand aghast at it, and every honest man of the political party which has elevated the chief of this department to his present station, shall view this scene of political corruption with horror! Does the department cower under these charges, sir? Does it, in the face of an honest but deluded people, still shun the light under the hypocritical pretence that we cannot inquire into impeachable matter? Yes, sir, it dare do this; and it has found a supporter here, who, while he expresses his fears that we are ferreting out crimes of which we may afterwards become judges, denounces us as petty constables for our trouble. Yet, be it remembered that this comes from the chairman of the Committee on Executive Patronage; and, as the Senator from Maine, who was a member of it, has alleged, without contradiction, in the debate here, from the very author of the report of that committee, which, in 1826, examined every department of the Government for abuses, and reported six bills to check the current of Executive power, with a voluminous exposition of facts and alleged crimes, to lay the foundation of legislative interference. Look at the report! One of the bills contains a clause to compel the President to assign the causes for every removal from any office referred to in that bill. It was not only deemed proper, then, to disclose impeachable matter, but necessary to compel that disclosure for executive as well as legislative purposes. Now, the very course recommended at that time is right for no purpose. Another of these bills provided that no postmaster, where the profits of his office amount to a certain sum, shall be appointed to, or removed from, office by the President and Senate. The argument in favor of this bill then pressed upon the people, was, that the influence and patronage of the department were so vast, that it had become one of the "arbiters of human fate" in this country, and could no longer be safely trusted to a single individual. The committee, instead of telling us they were afraid to ferret out crimes, say they "hold themselves to be acting in the spirit of the constitution, in laboring to multiply the guards, and close the avenues to the possible abuse of power;" and the impeachable matter which is now so objectionable a feature in this inquiry, was then so glorious a discovery, that six thousand copies of the report were printed by the Senate, and scattered throughout the country. We see here who were the "petty constables" of that day; and if a change of times has not produced a change of principle too, we shall now proceed fearlessly in ferreting out abuses of every description which we can reform or inhibit. If, for doing so, we receive the appellation of petty constables, let us rely for our reward on the approbation of our consciences, and our country, taking care to merit no more humble title than that of honest constables, who never charge double compensation for their trouble.

But it is alleged that this question was decided by the Senate at the last session, when they refused to inquire into the causes which induced the President to sweep the list of civil officers, and the aid of precedent is invoked to effect a suppression of this investigation. Sir, I am not aware that this Senate has, in the gloomiest period of subserviency to Executive will, decided the abstract principle, that even the President is above the law, or that his principles of action, while administering the constitution, are not liable to investigation. I know well that, in the executive sessions during the last year, inquiries, in particular cases of removal, were repeatedly refused, some thinking the inquiries inexpedient in those particular instances. The power of the representatives of the States was held in slight estimation by the advocates of Executive influence at that day, it is most true; but even then no man pretended that all the subordinate officers of the Government should be covered with the same ægis which protected their chief. The argument then was, sir, that the President was answerable only to the people who elected him at the polls, and not to their representatives—a distinction to which I never bowed with any respect, and which I still think is entitled to none. But the chiefs of departments are neither elected by the people nor the States, nor answerable to either in any other way than through their representatives here, to whom their whole powers are conferred The Postmaster General, like the rest of these chiefs, is an officer unknown to the constitution, and the creature of the law only. Congress enacted the law which constitutes his whole authority for action. It made him. It can repeal that law and unmake him. Upon the very principles conceded by those who sheltered your President from scrutiny, the chief of this department is amenable, like every other creature of the law, to his creators. And if not, then is every other executive officer of this Government at all times, and under all circumstances, above the very law which established his office. You cannot, on this principle, investigate the conduct of the most petty officer in the customs, without invading the royal prerogative; and the principle that the "King can do no wrong," which even England knows only in theory, is here transferred to every subordinate of the

Government, until every "pelting petty officer" becomes a tyrant, amenable to no human tribunal but the will of his political chief.

But, sir, I have used, it seems, an unfortunate expression. "Proscription" is itself proscribed. The gentleman from Tennessee, with his nine causes of removal, complains of the use of the word most grievously. His delicate organs, and the still more tender sensibilities of the Postmaster General, are not to be assailed by so unseemly a phrase, and he makes a hit at the Senator from Maine for daring to say "proscription." Sir, we shall hardly be driven from the appropriate use of the offensive phrase, even though the chief of this department should be subject to fainting fits at the sound. It is a word of such "exceeding good command," that he and his advocates must pardon me if I try how I can speak it in pure emulation of my friend from Maine, to whom the member from Tennessee, having most exquisite organs to judge between us, but not yet having given me a fair hearing, has awarded the palm for pronouncing it better than any other man in this nation. I say, then, in the name of an insulted and abused people, to this chief of a department, who has driven hundreds of better men than himself from the public service, that, although his advocate here has forbid our tongues to speak of "proscription," yet I would that every victim of his unmerited displeasure might find him when he lies asleep, and halloo in his ear "proscription."

> "Nay, I would have a starling taught to speak
> Nothing but 'proscription,' and give it him
> To keep his anger still in motion."

He should be met at his incomings and his outgoings, and every honest man should ring it in his ears until the effects of his proscription are properly appreciated by him. And now may I ask the gentleman from Tennessee, whose nerves are so sensitive on this subject, how, in his judgment, I pronounce the word proscription?

[Mr. GRUNDY—exceedingly well.]

Then the honorable member will, I hope, hereafter hesitate to decide before he has heard all the evidence. May the good word never be laughed out of countenance by any political wit snapper who may be displeased by its use. For the present, I fear much that the effect of the vindictive spirit which has actuated this department may not be properly appreciated, for it has been alleged here, that this proscription meets the full approbation of the President, and his name has been used as a political *decantatur*, to hush the inquiry into repose. This sounds the tocsin of party, and invokes the aid of that influence which can at all times successfully suppress truth and propagate falsehood. We may despair in such a contest, and be compelled to acknowledge that if he who presides over this republic has sanctioned all this proscription, we are too powerless to obtain redress. But it will be soon seen whether there be not one man in this nation able to breast its terrors when even the President hurls his thunders. There are hawks abroad, sir. Rumor alleges that the plundering falcon has lately stooped upon a full-winged eagle that never yet flinched from a contest, and, as might be naturally expected, all await the result with intense interest. It is given out that the intended victim of proscription now is one distinguished far above all in office for the vigor and splendor of his intellect:

> ——"Micat inter omnes
> Velut inter ignes luna minores."

One who has been a prominent member of the party which gave power to our modern dictator, is to feel the undying vengeance which can burst forth after the lapse of twelve years, for an act done, or a word said, in a high official station, and under the solemn obligation of an oath. But if that energy and firmness which have hitherto characterized him through life, do not now desert him in this his hour of greatest peril, we may yet live to see one who has been marked out as a victim, escape unscathed even by that power which has thus far prostrated alike the barriers of public law and the sanctity of private reputation. In the mean time let it not be forgotten, that the injuries inflicted by that proscription which levels first at the office, and then at character to justify the blow, is not less severely felt because the sufferer has not moved in a splendid circle. The "beetle that we tread upon may feel a pang as great as when a giant dies;" and, looking to the case to which I have alluded, may not the hundreds who have felt the sting of unmerited reproach fairly invoke the sympathies of others who are now made the objects of an attack not less unmerited and unrelenting in its character than that which their humbler efforts may have been unable to resist?

And now, sir, to return to the resolution. It is declaratory of the limits of the commission under which the committee act, by its very terms. It affirms what is untrue, that we have no power, under our commission, to make this inquiry. The original resolution directs, as we have seen, an inquiry into the "entire management of the Post Office Department." Why do not gentlemen say in terms, that their aim and object is to repeal a part of the powers originally conferred? Why not boldly avow at once, that the boastful defiance of inquiry, at the commencement of the session, when the committee was appointed, was but an empty vaunt, which it is now found necessary to retract? The gentleman from Tennessee says that he can supply us with all the information on the subject of the causes of removals. He enumerates nine of these: 1st, Intemperance; 2d, Delinquency; 3d, Prying into letters; 4th, Concealing or withholding letters; 5th, Habitual negligence of duty; 6th, Incompetency; 7th, Refusal to comply with the regulations of the Department; 8th, Discharging the post-

masters' duties by deputies under age; 9th, Living off the post routes. And the honorable gentleman sums up this list of causes with the sweeping declaration, "that he has no doubt there has not been a single instance of removal but for one or other of these causes!" Sir, are we to suppose that the Postmaster General instructed him to make such a declaration? The honorable member can know but little on the subject, of his own knowledge. He lives in a district whose political sins have not demanded such expiation as this of removal from office. But we who live north of the Potomac know, sir, that his enumeration of causes is a gross insult to hundreds of our worthy citizens, who have been removed without any other transgression than that with which, according to the orthodox creed emanating *ex cathedra* here, is denominated political heresy. In the mean time, sir, this declaration of the gentleman shows us how just were our suspicions, that the files of this department have been filled with groundless accusations against the victims of its proscription, which may sleep there unrefuted, because they remain unknown, until, in the lapse of time, when the men have been laid in their graves, these receptacles of filth may be opened by the hand of benevolence, to tarnish the memory of those before whom, while living, the accusers dared not show their faces. His very statement of causes, therefore, exhibits the strongest reason for demanding an exposition of the facts. But, sir, the blow is not merely levelled at the hundreds of removed postmasters. It strikes directly at their late chief, who retained them all in office. The declaration thus made boldly to the world is, that he kept in office some five or six hundred men, who were either drunken, or were prying into correspondence, or were guilty of some other of the enormities enumerated in this list. The answer to it all, is, look at the state of the money chest now, and remember what it was when John McLean was compelled to leave it, or surrender his independence as a man, and become the tool of this proscriptive and arbitrary power.

But the Senator from Tennessee finds another cause for suppressing the inquiry, in what he calls the verdict of the people. The gentleman from Maine had complained of the removal of some twenty-five postmasters in one of the counties of that State. The Senator from Tennessee says he has no right to complain, because the people there have sanctioned the proscription by giving their vote for the administration. Sir, I pretend to know nothing of the case. But I may ask, did the people act with a view to all the subordinate officers of the Government, when they merely approved of the general acts of the President? The conduct of these subordinates was probably no part of the issue joined before the people. From the nature of things, we must believe it could not have been so. So far from passing sentence on the removed officers by their vote, the people probably were engrossed by what they deemed more important considerations affecting the general welfare of their country. But, sir, if they had acted with a view to these offices alone, would it have been quite fair to have urged the force of their verdict upon us? It would not sound well, in any supposable case, to offer bribes or threats to any part of the jury, and then plead their verdict in justification of the act; and the very evil complained of being the influence of Executive patronage on the elective franchise, I do not hesitate to say, without reference to the people of Maine, or any other particular State, that if you can find a case which has been decided by the influence of that patronage, you might as well boast that you had embraced a jury, and point in justification to the verdict, as to plume yourselves upon the effect which that patronage has produced. And if the argument has any weight, what shall be said of those verdicts which the people have rendered in other districts of country, where the proscription has been equally extensive, and where, in defiance of your patronage, the decision has been against you?

There is no department of this Government, sir, in which the people take so lively an interest as the post office. It should be so conducted as to secure their perfect confidence. It should, therefore, have no party character whatever. So anxious was Mr. Jefferson to deprive it of all political connection, as we learn from his memoirs, that he prohibited the employment of any printer in the department, even so far as to be concerned in the transportation of the mail. Suppose that, in his day, or that of any former President, it had been charged with operating on the elective franchise, and the rights of the States, through the immense influence of an army of dependents, amounting to more than ten thousand men, with subsidizing the press, establishing a system of espionage, and wasting the public treasure in disbursements to political favorites—I ask, would any party, at any former period, have had the hardihood, after an investigation had been set on foot to ascertain the truth of such conjectures, to suppress the investigation, or to restrict it in any particular, for the purpose of preventing a complete development of all its operations? Yet such charges are now loudly proclaimed against it; such an investigation has been called for, and the very object of the resolution on your table is to close the door against inquiry.

Sir, I have done. In the fearless discharge of my duty here, I may have drawn down on my own head the vengeance of a power, more terrible than any which all the other authorities of this Government combined can wield; but I should have proved a faithless representative, and recreant to the interests of the intrepid people who have never yet bowed to the terrors or the allurements of Executive influence, if I had shrunk from its performance.

THURSDAY, February 10.

Duty on Alum Salt.

Mr. BENTON asked and obtained leave to withdraw the bill, which was laid on the table the other day, for the abrogation of the duty on alum salt.

The VICE PRESIDENT took the occasion to say that, after mature examination and deliberation, he was satisfied that he had erroneously decided that the above-mentioned bill could not be received. He considered that it was at the disposal of the Senate, as other bills were.

Mr. BENTON then gave notice that he would to-morrow ask leave to introduce a similar bill with some modification.

Thomas Jefferson and his Daughter.

Mr. POINDEXTER rose to ask leave to introduce the bill of which he yesterday gave notice. He said that, observing in the Telegraph of this morning, in the report of the proceedings of the day before, an error, by which it appeared that he had presented a memorial from Martha Randolph, the daughter, and only surviving child of Thomas Jefferson, deceased, it was due to the sensibility of that lady, as well as to himself, to state, that, in giving notice of his intention to introduce a bill concerning the only surviving child of Thomas Jefferson, he was actuated solely by his own views of the high obligations of duty, and a desire to rescue the nation from the imputation of a want of gratitude to a departed statesman, who had so largely contributed to the establishment of this Government, and the free institutions under which we live. No memorial was either received or presented on this subject. No intimation whatever has been made of a desire to bring this question under the consideration of Congress by the individual named in the bill, which he had asked leave to introduce. He had no doubt that the error noticed was unintentional on the part of the editor of the Telegraph.

You will perceive, Mr. President, continued the eloquent Senator, that I have brought before this honorable body a proposition calculated to animate the patriotic feelings of every American citizen; a proposition which has too long slept in the bosoms of those who administer this Government. The name of Thomas Jefferson is identified with the independence and glory of this country. His eulogy is written in the pages of faithful history, and deeply impressed on the hearts of his countrymen. I will not deface the sublime and beautiful picture by any attempt to retouch it with the pencil of an unskilful artist; but it shall be my humble part simply to bring to the recollection of this honorable body the high claims of this eminent philosopher and statesman to the gratitude of the generation who survive him, and leave to others, better qualified for the task, the pleasing duty of illustrating the merits and distinguished services of one whose equal has seldom appeared on the great theatre of the political drama of the world. Washington, Lafayette, and their companions in arms, wielded the physical force of the colonies in our revolutionary struggle. Jefferson, Adams, Franklin, and their compatriots in the cabinet, fought the great moral battle of their oppressed country at that memorable epoch. They boldly asserted those rights and principles, which vindicated our cause throughout civilized Europe, and brought into action the invincible energies of the American people, by whose perseverance and valor the chains of tyranny were broken, and the mercenaries of the tyrant driven from the land which they had dared to invade and desolate with conflagration, robbery, and the sword. Under the influence of feelings honorable to our national character, which have been, on many occasions, signally manifested, the Congress of the United States, a few years past, by an almost unanimous vote, made a voluntary gift to General Lafayette, of the sum of two hundred thousand dollars, and a further donation of a township of land equal in value to the additional sum of one hundred and fifty thousand dollars. This liberality to the hero who fought our battles, who espoused our cause, and shed his blood in our defence, and who has been the uniform friend of liberty in both hemispheres, met the approbation of the people at large. It has never been complained of by the most vigilant guardian of the public purse. Our national gratitude to this distinguished man was due to his disinterested services and sacrifices in the great cause of freedom, and the emancipation of these States from the galling yoke of despotic power, wielded by the unrelenting arm of the British monarch. It has imparted a lustre to the American name far more precious than the price at which it was obtained. Actuated by the same lofty considerations which governed the National Legislature on that occasion, let us not forget the testamentary bequest of the great author of the Declaration of Independence to his beloved country. Jefferson, whose name must be ever dear to the friends of human liberty throughout the world, in the last hour of his existence, bestowing an expiring thought on the political connection which had so long existed between himself and the American people, and feeling the pressure of his pecuniary circumstances, and the embarrassed condition of his affairs, consoled his agitated spirits by the confidence which he reposed in the justice and benevolence of this nation; and, with his last breath, bequeathed his daughter and only surviving child to that country which he had so faithfully served, and of which he was the pride and ornament. Shall we then fold our arms in cold indifference, and, unmindful of him, whose enlightened mind and unbought patriotism gave impetus to the ball of the revolution, and fixed the great principles of this confederated republic, treat with unkind neglect the object dearest

to his heart, which he had so confidently committed to our generous protection?

Shall we limit our liberal donations to Lafayette, and a few others, and permit the only surviving child of Thomas Jefferson to linger in poverty in her native country, while every page of its history points to the glory which has been shed over it by the acts of her illustrious father? I hope not. The ingratitude of republics is the favorite theme of tyrants, and of all those who urge that man is incapable of self-government. The despots of the world taunt us with this insulting epithet. We have shown them in the case of Lafayette that we do not deserve the foul imputation. Let us follow up the good example by an equal liberality to our own, our venerated Jefferson, and this stain on the fair fame of the republic will vanish into thin air, and be remembered among the fables of a deranged imagination. I now move, Mr. President, that leave be given to bring in a bill according to the notice which I gave yesterday, and that it be referred to a Select Committee.

A bill "concerning Martha Randolph, the daughter and only surviving child of Thomas Jefferson, deceased," was then presented by Mr. POINDEXTER to the Chair, read a first and second time, and referred to a Select Committee, consisting of Mr. POINDEXTER, Mr. BELL, Mr. WEBSTER, Mr. TYLER, and Mr. HAYNE.

Post Office Department Investigation.

The Senate again took up the resolution concerning the examination of witnesses as to the causes of their removal from office.

Mr. CLAYTON concluded his speech against the resolution.

Mr. BENTON said, that he did not appear on the floor for the purpose of joining in the debate, nor to express any opinion on the truth of the allegations so violently urged against the Postmaster General. He had no opinion on the matter, and did not wish to have one, except it was that presumptive opinion of innocence which the laws awarded to all who were accused, and which the pure and elevated character of Mr. Barry so eminently claims. If impeached, it might be his duty to sit in judgment upon him—or, if he had an opinion in the case, to retire from the judgment seat; as he could neither reconcile it to the dictates of his conscience, nor the rights of the accused, to take the oath of a judge, with a preconceived opinion in his bosom, to be dropped out as soon as the forms would permit. He rose, he repeated, not to accuse or absolve Mr. Barry, but to express his opinion of the character of the proceeding which was carrying on against him, and to intimate an idea of what might be proper to be done hereafter in regard to it. He then affirmed with deep and evident feeling, that he looked upon the whole proceeding, from its first inception to that moment, as one of eminent impropriety, compromising the judicial purity of the Senate on one hand, and invading the privileges of the House of Representatives on the other. The Senate, under the constitution, tries impeachments—the House of Representatives prefers them. Each has its assigned part to act, and it is an invasion of privilege for either to assume the part of the other. If the tenth part of the matter so furiously urged against Mr. Barry was true, or even founded in probability, he might come before the Senate for trial; and it would be a horrid mockery of judicial forms for his future judges to take the lead in the case of accusation, and to excite, promote, foment, and instigate charges against him. To the House of Representatives belonged that part of the painful business; and the present proceeding in the Senate must appear to them as an invasion of their privilege, and an implied censure upon their negligence. It did seem to him that the House of Representatives might take notice of the proceeding, and feel itself bound to vindicate its rights; and the two Houses thus be brought into serious collision. To avoid these consequences, as well as to escape a compromise of the judicial character of the Senate, he was decidedly of opinion that the debate and proceedings should terminate immediately. This would save the further evils to the Senate itself, which might ensue. As to the past—the proceedings already had—he declared that he thought them a fit subject for that operation which had been performed upon the record of Wilkes's expulsion from the British House of Commons—upon the record of the Yazoo fraud, in the Legislature of Georgia—and upon the record of the Massachusetts General Assembly, which declared it to be unbecoming the character of a moral and religious people to rejoice in the victories of their country. He declared it to be his deliberate opinion that the history of the whole proceeding against Mr. Barry ought to be expunged from the journals of the Senate! Total expurgation from the journals was the most appropriate means in the power of the Senate to restore its own injured character—to make atonement to the invaded privileges and insulted feelings of the House of Representatives; and what, perhaps, was still more important, to prevent this evil example, this horrid combination of the accusing and trying function, from being drawn into precedent in future times when the party in power, and predominant in the Senate, might want the spoils of a victim. If the American Cato, the venerable MACON, was here, it would be his part to become the guardian of the honor and dignity of the Senate: in his absence that high duty might devolve, at an appropriate time, upon some aged Senator. If none such undertook it, it might become his part to consider how far their places ought to be supplied by a less worthy and less efficient member.

Mr. WOODBURY regretted the course pursued by the gentlemen from Maine and Delaware, especially by the latter. It had compelled him again to trespass on the indulgence of the Sen-

ate, during the discussion of this resolution, although the subject must have become irksome. But new positions had been assumed—new insinuations uttered—new and extraordinary accusations rung in the ears of this body and of the whole community. Silence under them might be construed into approbation. In repelling them, he disclaimed all that part of the compliment bestowed upon him in connection with his friend on the right, (Mr. G.,) that they were "most dexterous advocates of the Postmaster General." He, as an individual, was in this body the advocate of nobody. He acted in his station as a Senator, and only as a Senator; and whomsoever in a public station he might be called upon, in the course of official duty, to vindicate or condemn, he should endeavor to do it in a manner becoming that public station, and with a single eye to the public interests. In the discharge of what had devolved on him, as a member of the special Post Office Committee, in relation to the present debate, he had used, and should hereafter use, no dexterity beyond a dry appeal to our own congressional documents, and to such mathematical computations on their contents as every gentleman could disprove or verify for himself.

Poetry had never before, but once, he believed, been brought in aid of an examination into any of our fiscal concerns; and though that was done by the head of a department, he should beg leave to decline following both that example and the example of the two gentlemen opposed to this resolution, in preferring figures of rhetoric to figures of arithmetic. Nor should he willingly follow the last speaker in making political prophecies, whether as to men or measures. He felt much veneration for religious prophecies; but as for political ones, when uttered by politicians, who had made arrangements to bring about the events foretold, and were endeavoring, he hoped in vain, to verify their own predictions, he cherished not sufficient respect for such prophecies as to imitate such an example. The grave character of this body demanded of us to consider that we were in fact examining the conduct of one of the most elevated officers of the Government; an officer who, from his public station as well as his high personal character, was entitled to at least ordinary comity, and an adherence, on our part, to a fair, manly, and liberal course of investigation. We were carrying a scrutiny into the receipts and expenditures of nearly two millions annually; and we should do it, he trusted, on the same just principles, and the same settled rules of evidence, as governed us in relation to similar subjects in other departments, and in other periods of our history.

How had we got involved in this wide and desultory debate? Assuredly by a marvellous departure from the language and spirit of the resolution itself, on the part of its opponents. The resolution proposes simply to check the inquiries of the special committee into the causes of removals in the Post Office Department. This is a single and a fair proposition for the decision of this body. The committee being divided, an appeal was made to you, as you are the authors of the reference, and have power to construe, amend, or abolish it altogether. In favor of that proposition the minority of the committee believed that the Senate had pronounced an opinion the last winter, after very full debate, and, therefore, not "carefully avoiding," as the member from Delaware alleges, an argument on the construction which might be given to the words of the reference independent of that opinion; but contending that, after such an opinion, the Senate could not intend to have a construction placed on the reference hostile to their own decision, the minority opposed going into an inquiry of the special causes of removal. They believed, also, that we ought not to embark in that inquiry, because all admit the Postmaster General has both the legal and constitutional right to displace any of his deputies. The right or power being conceded, there is no law nor sense in making him amenable, in the first instance, to the Senate, for any supposed abuse of that power. For such abuse he is responsible only to the other House, as the impeaching body, or to the President, who can control or remove him at pleasure; but we, the Senate, can neither impeach nor remove him; and, as a legislative body, have no more right to investigate the particular motives which influenced him in any removal, than we have the motives of a collector of the customs, or a marshal, in the removal of their deputies. The general course of administration in respect to removals, it might be proper to ascertain, as once before remarked, with a view to legislation. So might it be in respect to the fiscal concerns of the department, with the same view; and the latter investigation might be pushed further, into the smallest minutiæ, to see if any departure had been made from the acts of Congress about receipts and expenditures; and, if any departure, what remedies might be proper to prevent a recurrence of the mischiefs. But, in relation to particular removals, the law had intrusted the Postmaster General with unlimited discretion and power. Such a discretion could not be violated. There would not be, in any removal, a departure from the law, because there existed no law restricting him; and hence an inquiry into particular cases was unjust, useless, and improper.

So much for the direct merits of the resolution. But mark the ingenuity of our opponents, in getting up the rest of this extraordinary debate! The Senator who has just addressed you, avers, that the moneyed concerns of the Post Office Department are "rapidly verging to insolvency;" that this has been caused by the misconduct of faithless and fraudulent officers recently appointed; and hence, that you ought to permit the committee to ferret out the causes of the removal of their predecessors. To reach his inference, it will be

seen that the gentleman has been obliged to resort to "two assumptions of fact, if not of doctrine," in the language of Colonel Lawless. If either of those assumptions fail him, in the proof or investigation, his inference against the check contained in the resolution has no foundation to stand on. Like the Indian philosophy as to the foundation on which the earth stands, he may rest some of his positions on the elephant, and the elephant upon the tortoise; but on what does his tortoise stand, if the department is not, in truth, verging to insolvency? Or, if embarrassed, it has not, in truth, become so by neglect and corruption, but by your own system of legislation, largely increasing its expenditures? The gentleman, likewise, has indulged in these two assumptions, at the very moment when the committee were inquiring into the real condition of the funds of the department, and when his questions about removals might have been judiciously postponed, it is believed, till the truth of the assumption, as to insolvency, on which his other questions rest, were fully ascertained. But no; this did not suit the zeal and impatience of the prosecution. It was thought better to guess at the fact of insolvency, or attempt to show, from imperfect and perverted circumstances, than to wait a few days for decisive evidence, one way or the other—evidence, too, within our own reach, and which we were collecting by interrogatories to the department, access to its books, and the unlimited power conferred on us by the Senate to send anywhere for persons and papers.

FRIDAY, February 11.

Post Office Department Investigation.

The Senate resumed the consideration of Mr. GRUNDY's resolution.

Mr. SPRAGUE said he declined entering into any discussion on its fiscal concerns, but stated his objections to the resolution, as tending to impeach the veracity of individuals who had been dismissed from office in the capacity of witnesses before the special committee.

Mr. GRUNDY explained, and said, than this nothing was further from his intention, and he had no objection so to modify his resolution, as to do away with any erroneous impression in that respect which might be formed.

Mr. LIVINGSTON said: I gave my vote for the resolution under which this committee was appointed, but most certainly not with the intent of vesting them with the power which their chairman contends they have a right to exercise. What is that power? One, sir, that the Senate has solemnly declared, after the fullest investigation, that the Senate itself had no right to exercise; a debate in which the honorable chairman of this committee strove with his usual earnestness, with unusual eloquence and ingenuity, but strove in vain, to establish a right in the Senate to call on the President to give his reasons for such removals from office as the Senate might deem improper. Sir, the honorable chairman needed not to have assured us that he was tenacious of his purpose when he thought that purpose right; the perseverance with which he clings to the doctrines which he on that occasion so ably advocated, is a proof of this. Now, sir, how does the interrogatory proposed to be put by the committee, and the argument by which that right is attempted to be sustained; how do these differ from the inquiry then urged to be proper, and the arguments which were then used, but which failed to convince us? The Postmaster General is an officer appointed in virtue of a law which prescribes his duties and designates his powers. His great duty is to secure the transmission of the mail, and the security of the revenue to be derived from that source. The essential power given to him for the performance of these duties, is the appointment of his deputies, and, as a necessary consequence, their removal, whenever they do not, in his opinion, properly perform their duties; they are answerable to him in the same manner as he is to the President—as the President may remove him in the exercise of his legal discretion, so may he remove the deputies whom he has, on his own responsibility, appointed. All the arguments used against the interference of the Senate with the removals by the President, apply with the same force to any intermeddling here. I will not fatigue the Senate by repeating those arguments; they were deemed conclusive then. Circumstances have not changed; nor have the members of the Senate changed. Whether any arguments now addressed to them by the chairman of the committee can have operated any change in their opinion, I should be very much inclined to doubt, because I have heard none now that I cannot recollect perfectly to have heard on a former occasion. Sir, they are old acquaintances, and though they, like old friends, sometimes put on new faces, and trick themselves out in new dresses that they borrow from eloquence and talent, yet it requires no great stretch of memory to recollect them. I will simply ask the honorable chairman what practical good he expects will result from the inquiry? Let us suppose it proper, and pursue its course; a discarded officer of the department is called before the committee: "Sir, you were a deputy of the Postmaster General; for what cause did he dismiss you?" "Sir, it is impossible for me to tell; I was a most meritorious officer, regular in rendering my accounts, punctual in my payments, diligent in the duties of my office." "Call in the Postmaster General: Why did you dismiss this man?" "Because he was totally unfit for his office; he never attended to its duties; his mails were rarely made up in time; and the mail-carriers were detained for hours at his office." "Can you bring proof of these charges?" "Easily; you have only to send for the mail-carrier between Memphis and New Orleans, and for eight

or ten of the inhabitants of the village where he lives; the distance is not much above two thousand miles, and you may have them here certainly in a year." The report must be made in three weeks. Here is one case, and a probable one: How many such in the five hundred cases of removal? Take another: "Why, Mr. Postmaster General, did you dismiss A. B.?" "Because, sir, I had no confidence in him; a discretionary power was given to me, which I have exercised in all cases according to the best of my judgment." Then I think that inquiry must end. But suppose, in another case, the suspicions which have been expressed, or rather the positive charge, that has been repeated till the echoes are tired with it, that the removal should have been of a person hostile to the election of the present Chief Magistrate, and that another, of opposite politics, should have replaced him; suppose this to have happened in three hundred out of the five hundred removals, what is to be the result? Why, the honorable chairman has long since anticipated it. Such conduct is corruption, and corruption is an impeachable offence. To this result, then, we come at last. A committee of the Senate, members of the high court for the trial of impeachments, are to be employed in finding materials for the accusation of an officer whom they, in the performance of their high functions, are to try; but this seems to offer no serious objection to the two members of the committee who have argued against the resolution; they think, and no doubt conscientiously, that it is part of the duty delegated to them, to inquire and pronounce upon this branch of the accusation against the Postmaster General. Nay, sir, they have gone further; they have entertained, and think it their duty to pronounce on accusations of fraud, malversation, and corruption. I did not understand them to say that these charges were true; but I did distinctly understand them to say that they were made, and that the committee were inquiring into their truth; and, unless I am greatly deceived, it was added, that they were supported by high evidence. Further, sir, the written allegation of some of these charges was laid before us; was read at the request of the chairman, in the shape of a letter from one of the officers who had been dismissed. Now, sir, against all this proceeding I deem it a duty solemnly to enter my protest. Every member of this body must pursue that conduct which is dictated by his own sense of propriety and duty. I have no doubt that the honorable members who differ from me on this occasion, are so guided. Far be it from me to inculpate them. But I too must follow mine; and my sense of imperious duty urges me not only to dissent from this doctrine, but to point out the consequences of what I deem a most dangerous assumption of unconstitutional power. Do we not entirely disregard the allotment made to us in the distribution of the powers of Government? Do we not encroach on those of a co-ordinate branch? and, by assuming powers not delegated to us, render ourselves incompetent to the performance of those that are? We appoint a committee for the purpose no doubt of inquiring whether any legislative measure is necessary to give greater effect to the Department of the Post Office. To give it any other construction would be to suppose it an unconstitutional measure. This committee asks for power to send for persons and papers. With confidence in the correctness of their course, we give it to them. And, under this delegation, it is contended they not only have a right to do that which the body, of which they form a part, has solemnly resolved it has no right to do; but, sir, that it is their duty to inquire into charges of fraud and corruption in the exercise of his official duties, by an officer upon whom, if he should be accused, we are afterwards to sit in judgment. Not only is this inquiry pursued in the committee; not only are its members forced to prejudge the case, but the charge is uttered in the assembled Senate; all of us are to have our judgments warped and poisoned by hearing evidence and arguments to show the guilt or to prove the innocence of the accused. And then, with our passions inflamed with the warmth of debate, with minds perverted by *ex parte* evidence, and the mixture of political feeling that has been introduced into the case, we are to take our places beside you, sir, in the august tribunal where we had so lately sat, and we are to call God to witness that we will decide coolly, and dispassionately, and justly, between our country and the officer accused. How, sir, are we preparing ourselves for this duty? By violent philippics against the man who, if the opinion of those who utter them is well founded, must appear at our bar to answer them! by arguments which those who believe in his innocence feel bound to use in his defence! by the excitement which zeal and eloquence must naturally produce in the minds of their fellow-judges, to whom they are addressed. In our zeal for political reform, or for the advancement of justice, we forget what we are. We assume the accusing, when we have only the higher, the judging power. If one "twentieth part the tithe" of the accusations that have been uttered on this occasion against this gentleman be well founded, he ought to be impeached; those who believe them to be true ought immediately to produce the charges before the accusing power, not to reiterate them within these walls, where no voice ought to be heard in cases of alleged criminality but that of calm deliberation.

Sir, whether the charges are true or false, I will not inquire, until they are constitutionally made and legally proved. Until then I am bound to believe him innocent, not only by duty, but because I believe him, as far as my observation has gone, to be an upright, able officer, and that, under his administration, the department has greatly extended its usefulness. But, although this opinion may make me require and scrutinize proof before I condemn, it

will never, if I can confide in my own judgment, swerve me from duty, if that proof should, contrary to my belief, be produced. Nor, on the other hand, can the misplaced invectives, the violent, acrimonious, and repeated charges that have been made, bias me against the man whom I esteem. The honorable chairman of the committee may, as he says he will, "teach his starling to cry proscription" until all the prating party parrots of the country can repeat it. He may, as he says he will, find his victim "when he lies asleep, and in his ear may halloo proscription!" He may make the Senate resound with this catchword of a party until he is hoarse with the repetition. Yet, sir, I trust the members of that august body will be calm; they will not suffer themselves to condemn or acquit but in the performance of their constitutional functions, nor suffer any delegated power to transcend those limits which they have determined to be the boundary of their powers.

Before I conclude, let me ask the honorable Senator from Delaware, whether he thinks his favorite word might not be with some propriety applied to the hearing *ex parte* accusations of fraud, corruption, and other misdemeanors against a high officer, repeating them in the highest council of the nation, and speeding them on the wings of his eloquence through the land, before the accused has even answered to the charge. The good feelings which I know that Senator to possess, will, unless I greatly mistake, in his moments of calm reflection, lead him to regret the course which an honest but mistaken zeal has led him to pursue on this occasion.

The observations, sir, of the Senator from Maine (Mr. SPRAGUE) are correct. The resolution offered by the Senator from Tennessee does not go far enough. I offer the following amendment: Strike out from the word "to," and insert—"make inquiry into the reasons which have induced the Postmaster General to make any removals of his deputies;" so as to read—

Resolved, That the Select Committee appointed on the fifteenth day of December last to inquire into the condition of the Post Office Department, are not authorized to make inquiry into the reasons which have induced the Postmaster General to make any removals of his deputies.

Mr. GRUNDY accepted the modification offered by Mr. LIVINGSTON.

SATURDAY, February 12.

After disposing of some private bills and other morning business—

The eclipse having reached the greatest obscuration of the sun about this time, and the Senate appearing indisposed to go on with business—

A motion was made and carried to adjourn.

MONDAY, February 14.

Mr. FRELINGHUYSEN laid on the table the following resolution:

Resolved, That the President of the United States be required to inform the Senate whether the provisions of the act entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," passed the 30th March, 1802, have been fully complied with on the part of the United States Government; and, if they have not, that he inform the Senate of the reasons that have induced the Government to decline the enforcement of the said act.

TUESDAY, February 15.

The Indians.

The resolution yesterday submitted by Mr. FRELINGHUYSEN, was then taken up.

Mr. FRELINGHUYSEN said he had presented this resolution for the purpose of certainly ascertaining the views and purpose of the Executive in respect to the Indian relations of the Government. We cannot, said Mr. F., officially rely upon any report or information but that which comes to us under the official sanction of the Chief Magistrate. And, sir, the Senate and the nation have a right to know his policy. I am aware that the Secretary of War, in his report to the President, of December last, has undertaken to dispose of the intercourse law of 1802, by a very short process. He has, indeed, cut the Gordian knot. He assumes the whole ground of the Indian controversy; takes as established, without argument or proof, the whole matter in issue, and then very gravely draws out the conclusion, that this law is unconstitutional, and ought not to be executed. He asserts the red men to be citizens of the States, and inquires, as if surprised at the necessity of asking the question, whether a sovereign State has not the right to legislate over all her citizens, white and red? Sir, he has not even undertaken to show how the red men, the Cherokees for example, became citizens of Georgia; and yet the suggestions of his report are put forth as a serious exposition of public law.

A brief reference to the provisions of this law, and the causes which led to its enactment, will shed very clear light upon its nature and obligation. Until the year 1796, the relations of the United States with the Indian tribes chiefly rested upon the stipulations contained in our treaties made with these nations, and the principles of general law. About the time first named, our Government considered this subject to be of sufficient importance to engross the distinct deliberation and legislation of Congress, and accordingly, in the session of '96, the Congress of the United States raised a committee on regulating trade and intercourse with the Indian tribes, and to preserve peace on the frontiers. While the matter was subsisting before this committee, a communication was made by the then President, (General Wash-

ington,) which, while it illustrates the character of that exalted statesman, affords a very valuable portion of history, that will refresh the hearts and encourage the hopes of every friend of the Indians. After the treaties made by the United States with the Cherokees in the years 1785 and 1791, usually known by the names of the treaties of Hopewell and Holston, intrusions were repeatedly meditated upon the territories of that nation, and Governor Blount, of the territory south of the Ohio, in 1796, apprised President Washington of these designs; upon which he addressed a message to Congress, as appears in the following extract from the journals of the House of Representatives:

"TUESDAY, *February* 2, 1796.—A message in writing was received from the President of the United States, by Mr Dandridge, his secretary, as followeth:

"UNITED STATES, *February* 2, 1976.

"Gentlemen of the Senate and House of Representatives: I transmit herewith a copy of a letter, dated the 19th of December last, from Governor Blount to the Secretary of War, stating the avowal and daring designs of certain persons to take possession of land belonging to the Cherokees, and which the United States have by treaty solemnly guarantied to that nation. The injustice of such intrusions, and the mischievous consequences which must necessarily result therefrom, demand that effectual provision be made to prevent them.

"GEORGE WASHINGTON."

Here, said Mr. F., the principles and spirit of Indian intercourse are traced up to their head spring. We rejoice to find their origin in the spirit of unbroken faith and sacred honor that sheds its radiance over this Executive document. Sir, this record of other times, now, when to break faith with an Indian is construed down into something short of dishonor—now, when the clouds are gathering over and around the hopes of these forsaken people—at this gloomy epoch in their history, to look upon this solemn acknowledgment of all their rights as "a nation," and our sacred obligations by "treaty," and under Washington's own hand, is a grateful subject for consolation. Would, sir, that General Jackson might be persuaded to put away from him all those hasty, ill-considered counsels, that are leading him away from the broad and luminous path of illustrious precedent.

But to proceed with the history. This Message and the letter were, in the first place, referred to the Committee of the whole House, and afterwards to a Select Committee of sixteen members, composed of Mr. Hillhouse, Mr. Cooper, Mr. Findlay, Mr. Jackson, Mr. Franklin, Mr. Henderson, Mr. Harper, Mr. White, Mr. Abiel Foster, Mr. Dearborn, Mr. Malbone, Mr. Buck, Mr. Patten, Mr. Milledge, Mr. Greenup, and Mr. Crabb. In the selection of this committee, we perceive the importance that was attached to the subject-matter of General Washington's communication, and the principles that should regulate our Indian affairs. A committee of the first names in Congress, members from the different States, and Georgia of the number, took up the treaties made with these tribes, and the duties, rights, and privileges that grew out of our relations, and reported to Congress the first intercourse bill, which became a law in May, 1796, and which, in all its material provisions, is now the subsisting and unrepealed law of the land.

These treaties, said Mr. F., had, amongst other things, traced and settled the boundary lines of territory between the United States and the Indians. And in the few sections of this law, to which I shall invite the attention of the Senate, they will perceive that in the Congress of 1796, of 1799, and of 1802, the several periods when this law came under public consideration, these boundaries specified in the treaties were recognized and adopted, and became the governing line of territory, in the first section of the bill. This law, like the treaties, runs the broad line between the State of Georgia and the Cherokees, and recognizes it as the boundary between separate and distinct nations,—between "citizens of the United States" and "the Cherokees," in specific and appropriate terms. No one of all the enlightened and exalted men who filled the seats of power, and aided in the councils of the country in 1796, entertained the notion for a moment, that Georgia had even the color of a claim to the property or persons of these tribes of free, and, as to her, independent people, and they legislated concerning them accordingly. After thus fixing the boundary, the second section of the law enacts, "that if any citizen of, or other person resident in, the United States, or either of the territorial districts of the United States, shall cross over or go within the said boundary line to hunt, &c., or shall drive or otherwise convey any stock of horses or cattle to range on any lands allotted or secured by treaty with the United States to any Indian tribes, he shall forfeit a sum not exceeding one hundred dollars, or be imprisoned not exceeding six months. And by the fourth section it is further enacted, that if any such citizen or other person shall go into any town, settlement, or territory belonging or secured by treaty with the United States, to any nation or tribe of Indians, and shall there commit robbery, larceny, trespass, or other crime, against the person or property of any friendly Indian or Indians, which would be punished if committed within the jurisdiction of any State, against a citizen of the United States, &c., such offender shall forfeit a sum not exceeding one hundred dollars, and be imprisoned not exceeding twelve months." Sir, who can fail to perceive how perfectly palpable is the distinction between the jurisdiction of any State of the United States, and the territory of the Indian nations? Every provision of this law is based upon this distinction, and would be absurd and incongruous without it.

Again, sir, the fifth section provides "that if any such citizen or other person shall make a settlement on any lands belonging, or secured

or guarantied by treaty with the United States, to any Indian tribe, or shall survey or attempt to survey such lands, or designate any of the boundaries, by marking trees or otherwise, such offender shall forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months; and it shall moreover be lawful for the President of the United States to take such measures and employ such military force as he may judge necessary to remove from lands belonging or secured by treaty as aforesaid, to any Indian tribe, any such citizen or other person, who has made or shall hereafter make or attempt to make a settlement thereon." Here, again, the unambiguous principles of our national policy are developed too plainly to be mistaken, or misunderstood. A policy, thus sanctioned by the concurrent opinions of six successive Presidents, and by the harmonious legislation of Congress for the last thirty-five years, is suddenly assailed by the opinion of the Secretary of War, and sought to be frustrated and avoided—and for what, sir? For what? To enable the State of Georgia to break over this boundary—this sacred boundary—to invade the possessions of our allies—and deprive them of their property and liberties.

Let us for a moment review some of the features of Georgia legislation. Our act, be it remembered, prohibits all surveys or attempts at surveying of Indian lands, by any citizen of the United States, or other person. Georgia has, by a late act of her Legislature, resolved to survey the Cherokee country—now listen—

"SEC. 33. *And be it further enacted*, That any person or persons who shall, by force, menaces, or other means, prevent, or attempt to prevent, any surveyor or surveyors from running any line or lines, or doing and performing any act required of him or them by this act, shall, on indictment, and conviction thereof, be sentenced to the penitentiary, at hard labor, for the term of five years."

And the following section still further discloses the nature of the proceedings in that State, of which we complain:

"SEC. 7. *And be it further enacted by the authority aforesaid*, That all white persons residing within the limits of the Cherokee nation on the 1st day of March next, or at any time thereafter, without a license or permit from his Excellency the Governor, or from such agent as his Excellency the Governor shall authorize to grant such a permit or license, and who shall not have taken the oath hereinafter required, shall be guilty of high misdemeanor, and upon conviction thereof shall be punished by confinement in the penitentiary, at hard labor, for a term not less than four years: *Provided*, That the provisions of this section shall not be so construed as to extend to any authorized agent or agents of the Government of the United States, or of this State, or to any person or persons who may rent any of those improvements which have been abandoned by Indians who have emigrated west of the Mississippi: *Provided*, That nothing contained in this section shall be so construed as to extend to white females, and all male children under twenty years of age."

Sir, said Mr. F., the crisis has arrived, when this conflict must be decided. Here is direct repugnancy between the legislation of the United States, and that of Georgia. Where is the Executive arm of the General Government to protect our laws and our treaties from violation? I cannot, sir, anticipate that the President will refuse to execute the laws of the land. I must hear it from himself. I maintain it, sir, as one of the soundest principles of our constitution, that the Executive does not possess the tremendous power of dispensing with the enforcement of public statutes. If a constitutional scruple shall affect the mind of a President of the United States, in respect to any act of Congress, he must get rid of his scruples, or he may lay down his commission: but while he holds the office, he must faithfully execute every law. It is absolutely imperative. The people of this country will jealously watch over this branch of Executive duty. They will expect its fulfilment, sir, to the very letter. Of all the men in this nation, the President is the last who should pause upon the requirements of any statute. He, at least, should be exemplary in obedience.

It may be, and has been said, that the opinions of the President may be inferred from the report of the Secretary of War, made on this subject, and by the President communicated to Congress. I know, sir, that a conclusion might be drawn from the silence of the Executive. But, on so momentous a question, I can leave nothing to inference. I submit, sir, that it is just and fair to the Chief Magistrate to propound a direct inquiry, and obtain from him a direct reply.

After some further discussion on the form as well as the substance of the resolution,

Mr. BENTON moved to lay the resolution on the table, to give the Senator from New Jersey an opportunity to modify it so as to call for certain specific information as to the Indian intercourse law of 1802; but the motion was negatived—16 to 25.

The question was then put on the adoption of the resolution, and decided in the affirmative: yeas 43 nays 3.

The Post Office Department.

The Senate then took up the following resolution of Mr. GRUNDY, as modified by Mr. LIVINGSTON, viz:

Resolved, That the Select Committee appointed on the fifteenth day of December last to inquire into the condition of the Post Office Department, are not authorized to make inquiry into the reasons which have induced the Postmaster General to make any removals of his deputies.

Mr. NOBLE made some remarks in opposition to the resolution; when the question was taken on its adoption, and carried in the affirmative, as follows:

YEAS.—Messrs. Barnard, Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Iredell, Kane, King, Livingston, Poindexter, Robin-

son, Sanford, Smith of Md., Smith of S. C., Tazewell, Troup, Tyler, White, Woodbury—24.

NAYS.—Messrs. Barton, Bell, Burnett, Chambers, Chase, Clayton, Foot, Frelinghuysen, Hendricks, Holmes, Johnson, Knight, Marks, Naudain, Noble, Robbins, Ruggles, Seymour, Silsbee, Webster, Willey—21.

WEDNESDAY, February 16.

The Senate then took up the following resolution, submitted yesterday by Mr. LIVINGSTON:

"*Resolved*, That a committee, to consist of three members, be appointed to prepare, and report, at the next session, a system of civil and criminal law for the District of Columbia, and for the organization of the courts therein."

On this resolution a debate took place, which lasted until near three o'clock, in which Messrs. LIVINGSTON, CHAMBERS, WEBSTER, FOOT, FORSYTH, HAYNE, BIBB, and NOBLE, took part.

After so long a discussion, the debate was arrested by Mr. FOOT, who read a paragraph from Jefferson's Manual, to show that, after an adjournment of Congress, no committee could sit in the recess, the two bodies being dissolved. He moved to lay the resolution on the table; which motion prevailed.

THURSDAY, February 17.

Penitentiary Punishment of Duelling, Gambling and Forgery in the District of Columbia.

The bill for the punishment of crimes in the District of Columbia was then taken up for a third reading.

When the bill had been read through,

Mr. HAYNE remarked that he had not paid that attention to the bill which would justify his acting upon it. He thought, however, that he heard the clerk read a clause (in the 12th section) making it a penitentiary offence to send a challenge to fight a duel. He asked that it might again be read.

[After the reading of the 12th section of the act, which ranks duelling with forgery and other infamous crimes,]

Mr. H. said he was no advocate of duelling. He would be very glad if any means could be devised to put an end to the practice. But his experience had taught him that every attempt to legislate unreasonably upon that subject had only tended to make the matter worse. To class it, as the present bill did, with the crime of perjury and its kindred offences, it seemed to him, would be productive of more evil than benefit. Under these circumstances, he moved to recommit the bill to the Committee on the District of Columbia, to give an opportunity for its revisal in this particular.

Mr. WOODBURY observed that there was another clause in the bill which to him seemed rather extraordinary. It was that which made the offence of gambling punishable by confinement in the penitentiary. He wished, if the bill should be recommitted, to draw the attention of the committee to this clause.

Mr. CHAMBERS said, the clause alluded to by the gentleman from South Carolina, (Mr. HAYNE,) that of duelling, had met the attention of the committee, and the force of some of the objections had been felt. In his own view of the subject, the most objectionable clause was that in relation to testimony in relation to duels, where witnesses were called upon in cases of prosecutions for duels. He could not say that this was entirely reconcilable with his views of right; but, with regard to classing this crime with others of an infamous character, it was conceived that the most effectual way of destroying those fatal ideas which honorable and high-minded men entertained of the practice, was to degrade it, and place it on a level with crimes of the most infamous hue. This course, it was believed, would do more to exterminate this fell evil from the land than any other. It was designed to assign it that low and degraded rank, in crimes, which should make it infamous, and thus save the honorable and high-minded portion of mankind from participating in it. It was evident to the committee that nothing but public sentiment could correct this great evil; and if it was the sense of the Senate that the provision of the bill was inexpedient, it would be shown by voting for its recommittal.

The view taken by the gentleman from New Hampshire (Mr. WOODBURY) on the penalty for certain kinds of gambling, also deserved some consideration. He could, however, inform that gentleman that the provision was not entirely a new one. He instanced a case in his own State, (Maryland,) where an individual had been incarcerated in the penitentiary for this crime. In relation to the evidence of this crime, also, it was well known that it was difficult to procure it by any other means than through those who were themselves the victims, and were entrapped in the toils of the gambler.

Mr. C. said, if it was the sense of the Senate to recommit the bill, he should not strenuously oppose it, though he thought, as the subject was now before the Senate, its features could be regulated there.

Mr. WOODBURY said, in relation to the clause which he had alluded to, that of making gambling a penitentiary offence, he would only remark, that in the State which he had the honor in part to represent, and, indeed, in all the Eastern States, where it was conceded that the people were as strict in their moral views and feelings as in any part of the world, the crime in question was only punishable by fine. It might be, that in other parts, where the evil was more prevalent, stronger punishments were requisite. Of this he would not pretend to judge; though, in most of the constitutions of the Eastern and Northern States to which he

had adverted, a clause was inserted declaring that no new or inordinate punishments should be inflicted.

Mr. POINDEXTER said that he was not an advocate for duelling. He referred to the laws of the several States upon the subject; to those of New York, Virginia, and he believed North Carolina. In those States the penalty for duelling was disqualification from office, and officers were required to take an oath that they had not been, and would not be, engaged in a duel. This was as far as any of the States went in their enactments on the subject. The honorable gentleman from Maryland, said Mr. P., must be aware that the most distinguished, the most honorable, and high-minded men in this or any other country had been involved in duels; and he asked if there was not reason to fear that the suppression of the practice would lead to a worse result, the introduction of the stiletto. If duelling were rendered infamous or impracticable, would not men find it necessary to wear a dirk to defend themselves from insult? If a man of independent mind and honorable feelings partook of none of the characteristics of a bully, he would still defend his honor at any hazard. He asked if such a result had not been seen in Virginia, where penalties had been imposed upon the practice. He did not advert to that State with any feelings of disrespect; far from it; for there were men who held it creditable to be tenacious of their honor. But he believed that the enactment of severe penalties would have the tendency of compelling men to resort to the knife to redress their personal wrongs. In legislating for the District of Columbia, Congress should not go further than any of the States have gone. He was in any event opposed to ranking this offence with the most infamous of crimes.

Mr. FRELINGHUYSEN said he should oppose the recommitment of this bill. If no other consideration had done so, the remarks of the gentleman from Mississippi (Mr. POINDEXTER) had convinced him of the propriety of its provisions. He was ready to grant that high-minded and honorable men had given countenance by their example to this barbarous usage. But would any man, in this age, contend that it was essential to resort to the pistol or the stiletto to avenge personal injuries? He approved of this bill, and this mode of legislating upon this subject. It was saying to these high-minded and honorable men, if you persist in this infamous practice, we must show you that there is a power stronger than your false notions of honor. It is found in the laws of your country; and the result of your perseverance must lead to disgrace, degradation, and infamy.

Mr. F. said he was about to state, before he heard the remarks of the gentleman from Mississippi, (Mr. POINDEXTER,) what his own experience had taught him on this subject. In the State which he had the honor in part to represent, the only way to put down the practice had been found to be to brand the act with infamy. Such measures had been taken, and it had had the desired effect. It would doubtless have the effect here; for when the legislators of the country put their seal of condemnation upon it—when the youth saw that their fathers and legislators were bent on putting it down, it would soon grow into disrepute, and fall under the predominance of correct sentiments. In trying the experiment in the State of New Jersey, it was, indeed, found necessary to show that the pains and penalties enacted against the offence were meant to be enforced. But when this was discovered, and the brand of infamy was affixed to the crime, it had, in a measure, ceased to exist; it had had the effect of correcting the public sentiment. It is such an evil, said Mr. F., as every good man should unite his influence and his interest in correcting. Mr. F. said, in commencing the operation of the corrective in New Jersey, fears of some of the evils predicted by the gentleman did seem to be justified. But now, since it had been rendered infamous, if the crime was ever committed, it was done by stealth only.

Mr. LIVINGSTON said, the difficulty here encountered in this bill was a proof that it had been hastily drawn, and had not received that attention and digestion which it required. Of this he was before fully aware, when he had submitted his proposition of yesterday, which had been laid upon the table. He had not intended, however, to have interfered with the progress of the bill by making a single remark. But since a motion had been made, on which he must give a vote, he would make a few explanatory observations.

Mr. L. said there was, perhaps, no subject in criminal jurisprudence, on which so many inconsiderate steps had been taken, as that now under discussion. Existing laws punish all such offensive words as come under the apellation of libels and slanders, but not those minor offences under the denomination of insults. In one case, the person aggrieved brings his suit at law; in the other, he sends a challenge. The reason is obvious; for these are the only remedies in his power.

Mr. L. here introduced a letter on this subject, referring to the effects of the course pursued by the State of Virginia, and an advocacy of that policy which renders duellists incapable of holding office. In this, Mr. L. said there was high authority for the belief that the enactments of Virginia had been highly beneficial. Mr. L. said he differed from his friend from Mississippi, (Mr. POINDEXTER,) in the idea he had advanced that the suppression of duelling would introduce the use of the stiletto. It was not in the nature of the American people to resort to such instruments. It did not belong to them. But there was another evil to be feared. It was that of impunity; the difficulty of procuring testimony in cases of duels, and the strong feelings entertained by jurors themselves in exculpation of offenders. The reason of this was obviously that the punishment was

altogether disproportionate to the offence. Such he conceived to be the case in the present bill. He would favor the plan of disfranchising offenders, and thus affecting their pride and ambition, as the surest mode of preventing the commission of the offence. He should therefore vote for recommitting the bill.

Mr. TYLER said he confessed he had not before understood the full force of this particular provision in the bill. For his own part, he was fully persuaded of the inefficacy and inadequacy of all legislation upon this subject. The idea of preventing duelling by punishments was a futile one: and enacting laws providing for shutting a man up in the penitentiary for the offence, was an absurdity. Why, said Mr. T., the very motive of the offender laughs at your bolts and bars; and shall he be deterred by such a motive, while he braves the hangman's halter?

The gentleman from New Jersey (Mr. FRELINGHUYSEN) had attributed the decrease of the practice of duelling in his State to the enactments of the Legislature; but if that gentleman would seriously reflect upon the matter, he believed he would coincide with him in attributing the effect to a deeper cause than any influence of law. He must also reply to an observation of his friend from Mississippi, (Mr. POINDEXTER,) who supposed that the people of the State which he had the honor in part to represent, were driven to the use of the stiletto in consequence of the enactments against duelling.

[Mr. POINDEXTER explained. He believed the instances were rare.]

Mr. T. said they were extremely rare: he had known of none since the enactments of the law against duelling. At the time of its enactment, such anticipations had been harbored, but they proved to be mere creations of the imagination. No such results had flown from it. The operation of the law had had directly the opposite effect; and this was felt by those whom it operated on. The fiery spirit of the South would sometimes manifest itself, said Mr. T., in their young men, and result in a challenge to fight a duel. His experience taught him that the consequence was a greater degree of urbanity in the intercourse of individuals, and he could safely say there were less personal difficulties or broils existing in the circles of society among his constituents than could be found elsewhere. He could attribute it to no other cause than the one he had adverted to. If you would put down this evil, said Mr. T., think not to do so by means of punishments. Attack the standing of the individuals in their eligibility to office, and you come nearer to the root of the offence. He agreed with the gentleman from Louisiana, that to shut the door to office, honor, and emolument, to the participators in the offence, was the most effectual method of correcting it. Do this and your work is accomplished.

Mr. T. said he should have been willing to have let the provision stand in the bill as it was reported, but it certainly went further than he was aware of.

Mr. CHAMBERS said, from his present situation in relation to this bill, he felt somewhat embarrassed and restrained in relation to his action upon it. The question certainly involved a great principle; and in order that the views of gentlemen might be deliberately made and calmly expressed, in order to give ample time for its consideration, he would move to lay the bill on the table for the present.

The motion was agreed to; and the Senate adjourned.

FRIDAY, February 18.

General Appropriation Bill—Diplomatic Salaries and Expenses.

The Senate took up the general appropriation bill, with the amendments reported by the Committee of Finance of the Senate.

The sixth amendment was as follows:

"For the outfit and salary of an envoy extraordinary and minister plenipotentiary; for the salaries of a secretary of legation; of a dragoman and a student of languages at Constantinople, and for the contingent expenses of the legation, $74,000; that is to say, for the outfit of an envoy extraordinary and minister plenipotentiary, $9,000; for salary of the same, $9,000; for salary of a secretary of legation, $2,000; for the salary of a dragoman, $2,500; for the salary of a student of languages, $1,500; for the contingent expenses of the legation, $50,000.

["For compensation to the commissioners employed in negotiating a treaty with the Sublime Porte.

"To Charles Rhind, an outfit of $4,500, deducting therefrom whatever sum may have been paid to him for his personal expenses.

"To Charles Rhind, David Offley, and James Biddle, at the rate of $4,500 per annum for the time that each of them was engaged in the said negotiation.

"For compensation to the commissioners employed on a former occasion for a similar purpose.

"To William M. Crane and David Offley, at the rate of $4,500 per annum for the time that each of them was engaged in the said negotiation."]

Mr. TAZEWELL moved to strike out the part above included in brackets, and this motion gave rise to a debate which occupied the Senate until past four o'clock, in the course of which allusion was made to the Panama mission, and the power of the President denied to appoint commissioners to conclude a treaty without submitting to the Senate the appointment, for confirmation, at the next ensuing session after the appointment. The gentlemen who participated in the debate were Messrs. TAZEWELL, CHAMBERS, SMITH of Maryland, BELL, KANE, KING, and SANFORD.

TUESDAY, February 22.

The Turkish Commission—Power of the President to Originate Missions.

The Senate resumed the consideration of the amendments to the bill for the support of Government for the year 1831; the amendment offered by Mr. TAZEWELL, and as further proposed to be amended by Mr. KANE, being the pending question.

Mr. TAZEWELL rose and addressed the Senate as follows:

If I had consulted my feelings rather than my sense of duty, I certainly should not have made the motion I did a few days since, by which the discussion then commenced has been produced. In this discussion, the infirmity under which I labor prevented me at that time, and, I fear, will still disable me from doing justice to the subject. But, as I have commenced the task, (however laborious and even painful it must be in my present situation,) I will now endeavor to complete it, confiding in the Senate, who well know how I am connected with this matter, and who witness my present condition, to pardon this ungrateful obtrusion upon their attention.

In moving to expunge that portion of the amendment proposed by the committee, which goes to provide for the payment of "an outfit and salaries," to "the commissioners," appointed as well by the late as by the present President, "to negotiate a treaty with the Sublime Porte," I stated most explicitly that it was not my purpose to deny to these persons the money which the committee proposed to award as compensation for the services they were supposed to have rendered; but that my object was to express, in this manner, my own decided disapprobation of what had been done in this behalf, as well as of the mode in which this remuneration was now proposed to be awarded to them. I said, that if a bill having for its object the compensation of these persons, should be introduced into the other House, where it ought to originate, and should receive the sanction of that body, such a bill would meet my cordial support here, even if it should bestow upon these individuals more than the committee proposed to allow them by their amendment. This explicit declaration, repeated more than once, I had supposed, would have protected me against the imputation of the Senator from New York, (Mr. SANFORD,) which was strongly implied in the question he propounded, when he so emphatically asked if I meant to claim to the United States the full benefit of the labor and time of these persons, and deny to them any equivalent therefor. To this question, thus asked, I will again answer with equal emphasis, No. It is not my wish to refuse to these men one single cent. So far from it, inconsiderable, nay, doubtful, as I believe the benefits to be, which they are supposed to have rendered, yet I will go hand in hand with the Senator from New York, or any other, in awarding for their service, not a mere *quantum meruit*, but a liberal and ample allowance for all their time and all their labor, nay, even for their honest though mistaken efforts in this regard.

Having said thus much, I must take the liberty of signifying to the honorable Senator from New York the very wide distinction (which to my own mind is quite obvious) between such a voluntary award of compensation to those who intended well and acted honestly, and voting an appropriation of money, upon the application of the Executive, in redemption of the faith of the State, said to be pledged by those who I cannot agree had any authority so to commit it. One would be the acknowledgment of a debt, of a demand of strict justice, which, although Congress may have the physical power, they have not the moral right to refuse. The other is a mere application to our equity, not addressing itself in any way to our plighted faith. One is a common exercise of our power of appropriation, connected with nothing but the special merits of the particular case, and constituting no obligatory precedent for any other even of a like kind. The other is a direct sanction of what I believe to be an unconstitutional act of the Executive, and a voluntary abandonment on the part of the Senate of its rights and privileges. One mode of proceeding would furnish to the other House all the facts existing in the case, and necessary to a correct exercise of their discretion over it. The other is well calculated to mislead that body, by holding out the idea that the appointment of the persons for whom compensation is thus provided, has received the confirmation of the Senate; and that the public faith is thereby pledged to award to them the allowance customary upon such occasions.

The Senate cannot fail to understand the broad difference between the two cases; and, whatever may be their opinion of the correctness of the principles upon which this distinction depends, they will nevertheless see in the distinction itself the reasons for the course I am disposed to pursue. This course will lead me to co-operate willingly with the most liberal, in awarding compensation to these individuals for what they have done, whenever that subject shall be brought properly before me, but will not permit me to vote one cent, in the mode now here proposed.

If any Senator, said Mr. T., shall concur with me in the opinion I have thus expressed, that the power which has been exercised by the President upon this occasion is not granted, but forbidden to him by the constitution, and that its exercise has been in flagrant violation of the rights and privileges of this body, conferred upon it for the wisest purposes, then I know that my motion will receive support. But if a majority of the Senate shall differ from me in this opinion, it will be rejected as it ought to be. In any event, however, I shall have the satisfaction of bringing this much vexed ques-

tion to a conclusion. Presented as it now is, it must be decided one way or the other. There exists no mode of eluding it. It is the conviction of this which gives to the present discussion all the interest it has for me; and which alone could have induced me to trespass upon the attention of the Senate at this time.

It has now been so long since I presented to the Senate a statement of the facts existing in this case, out of which the questions I mean to discuss arise, that it seems necessary to preface what I have to say by a brief recital of them again, that none may suppose I am about to waste your time by an idle dissertation upon some mere abstract proposition, which, whether true or false, is of little consequence to the country. I hope, therefore, that the Senate will favor me with their attention, while I repeat the statement formerly given.

Between the Ottoman empire and the United States no political connection, or diplomatic relation of any kind, ever existed, from the hour which gave birth to this republic as an independent sovereignty, until the year 1829. It is true, ineffectual attempts were made to establish such relations and connections, by both the Adamses while they presided in our Government. But the effort of the elder Adams, although approved by the Senate, failed, by reason of the refusal of the minister appointed by him to accept his appointment, and the subsequent abandonment of this scheme by those with whom it originated. And the secret efforts of the late President to establish such relations, without the advice or knowledge of the Senate, also failed, for reasons recently disclosed to this body, to which I will not now make any further allusion. Whatever may have been the desires of these Presidents, however, the fact is undoubted, as I have stated it to be, that until the year 1829 there never was any connection or relation between the United States and the Sublime Porte, more than now exists between the former and the empires of China and Japan.

In this state of things, on the 12th day of September, 1829, and during the recess of the Senate, the present President caused letters patent to be expedited from the Department of State, signed by his own proper hand, and authenticated by the great seal of the United States, whereby he commissioned the three persons named in the amendment proposed by the committee to be commissioners on the part of the United States, and thereby endowed them with plenipotentiary powers to negotiate a treaty of commerce and navigation with the Ottoman Porte.

I beg the Senate to bear in mind that this authority was not conferred upon these persons by any private letter or warrant written by a Secretary, and intended for their own guidance and governance merely; but that it purports to be granted by the Chief Magistrate himself, is communicated to them by letters patent, under his own signature, authenticated by the great seal of the United States, addressed to all whom they might concern, designed to be exhibited to the inspection of a foreign sovereign, and to be exchanged against similar powers to be granted by him to others who might equally possess his confidence. To whomsoever this seal was shown, it proved itself. When recognized by any sovereign, it entitled those who bore the commission it authenticated, to all the rights, privileges, and immunities accorded to the ministers of any potentate on earth; and authorized them to pledge the faith and honor of this nation to the performance of any act within the scope of the full power it purported to bestow. This is the character of the commission granted by the President upon the present occasion, a copy of which is now upon our files.

In pursuance of this commission, and of the instructions that accompanied it, Mr. Rhind, one of the commissioners, proceeded from New York (where he then was) to Constantinople. The other two commissioners were already near the scene of action; one of them being the commander of our squadron in the Mediterranean Sea, and the other a commercial agent of the United States, resident at Smyrna. Arrived at Constantinople, Mr. Rhind exhibited his commission to the Sultan, was received and accredited as the representative of the United States, and his proposal to negotiate a treaty was accepted. Other ministers, clothed with equal authority, were then appointed by the Turkish monarch, to confer with him upon this subject. They met, exchanged their powers, and began the business of negotiation. This was terminated by a treaty, which, although it bears date early in May, 1830, I will presently show was not completed until several weeks afterwards.

The Senate of the United States met on the first Monday in December, 1829, and continued in session until the last Monday (being the 31st day) of May, 1830. During this whole period, no information of these appointments was ever communicated to this body, nor were they at any time consulted, in any form whatever, as to the propriety of instituting this mission. The Message of the President to both Houses, at the opening of the present session of Congress, in announcing that a treaty had been entered into with the Sublime Porte, gave the first intimation to any Senator, that any negotiation had ever been had with that power.

Such are the facts existing in this case, as every member of the Senate well knows; and, by these facts, these two questions are presented: Did the President possess any authority to institute such an original mission during the recess, and without the advice and consent of the Senate? And if he did, was it not his bounden duty to have nominated to the Senate at their next session the persons he had so appointed during the recess?

The amendment offered by the committee, proposing, as it does, to give "as outfit and salaries," to these "commissioners" thus ap-

pointed, is a direct affirmation of the President's authority so to appoint them, and an approbation of his course in withholding all knowledge of their appointments from the Senate. Then, the proposition involved in my motion is, will the Senate sanction this usurpation of authority, which has been thus exercised in flagrant derogation of their rights? This is the question; and it is vain for us to seek to hide it from ourselves. A power has been exerted by the President without our advice and consent; and he now comes here, asking an appropriation of money, as the pledge of our acquiescence in, and approbation of, that which he has so done. Ought we to grant the application which has this object? I pray the Senate to consider the matter well, before they agree thus voluntarily and forever to surrender their highest privilege, conferred upon them by the constitution for the wisest purposes.

Before I undertake to examine the questions I have stated, let me call the attention of the Senate to the nature and character of what is supposed by some to be the "trifling" power which has been exerted upon this occasion.

If the President alone, without the advice and consent of the Senate, may originate a mission to a State with which we have never before had any political connection or diplomatic intercourse, all must concede that he may compound that mission of what materials he may think proper. If he may despatch one Minister, he has the same authority to send three, as he has done, or five, as was done in the negotiations at Ghent, or so many more as he may think fit. The same power he possesses to send Ministers, he must also possess to accompany them with such and so many secretaries, interpreters, students of languages, and other attachés as in his discretion he may judge useful to his new legation. And if he may appoint all these, doubtless he may contract with all and each of the members of this newly recruited *corps diplomatique*, as to the quantum of the compensation to be paid for their services. Thus he will have an unlimited power to pledge the public revenue to any extent he may choose. We shall then have these strange anomalies in our Government, that the President, who cannot touch one cent even of his own salary without the consent of both Houses of Congress, may, nevertheless, by his own act, properly create any charge upon the Treasury in favor of another, which he may think proper; and although, as to our long-established and approved diplomatic connections, the President must not enlarge the establishments fixed by Congress, yet, as to all new relations, his own discretion is the only check upon his own will.

Nor is this all. If the President alone, without the advice and consent of the Senate, may originate a new mission to Turkey, a power with which the United States never had any political connection or diplomatic relation, he certainly must have the same authority as to any other State. Then, the moment the Senate adjourns, he may adopt the suggestion of Mr. Rhind, contained in one of the letters now on your table, which has been read, and despatch a troop of diplomatists to Armenia, and another to Persia, on missions to which I am very confident the Senate would never give their advice or consent. If the matter should end here, although I, and the very few others who still think as I do, might regret this unexpected extension of Executive patronage, and useless waste of the public treasure, yet it would not be productive probably of much other positive mischief at present. But it might not end here.

Sir, we live in strange times. Revolutions of Government, and the dismemberment of empires, events, which formerly were almost of as rare occurrence in the political world, as those terrible convulsions of the natural world, which sometimes have shaken to its centre the globe we inhabit, have of late become quite common incidents. We now feel surprised if our newspapers do not furnish us, daily, with the details of some sanguinary civil conflict, of some new change in long-established Governments, or of some divulsion of ancient States and empires. Old dominions are almost hourly tottering to their downfall, and new sovereignties, springing from their ruin, are claiming to be recognized as independent members of the great family of nations. At such a season as this, while the thunder rolls and the lightning gleams in the distance only, it becomes us to look well to the ship in which our all is embarked. Our country expects every man to do his duty; and the first duty she enjoins is a faithful observance of the mandates of her constitution. If the President alone, without consulting either House of Congress, may institute an original mission to Turkey, so he may to Greece, to Egypt, to Belgium, or to Poland. Now we all know, not only what might be, but certainly would be, the result of this. It would be just cause of war, and the United States would at once be involved in that dreadful conflict which seems but to wait the return of spring to deluge Europe once more with blood, and to threaten the repose of all Christendom, perhaps of all the world. Here, then, would be another anomaly in our Government; for while Congress alone is authorized by the constitution to declare war, by the mere exercise of this "trifling" power of despatching a Minister to a new State, the President alone would be authorized to bring about that very state of things which the wise authors of that instrument certainly intended to commit to the discretion of Congress only.

Such is the nature, and such may be the effects, of the "trifling" power that has been exerted by the President upon this occasion, and which we are now asked to approve, to sanctify, and so to perpetuate in him and his successors. Let me not be told, as has been more than insinuated by some, that this vast

power will be lodged in the discretion of the President; and that we should have so much confidence in the wisdom and virtue of this officer, as to believe that the power will not be abused or exercised indiscreetly. Sir, I never have had, and I never can have, so much confidence in any President as willingly to confide to his unchecked discretion any important power, with even a hope that it will not be abused. It is in the nature of man to covet power, and to abuse that which he has, in order to acquire more; and, of all forms of Government, this elective monarchy of ours is least calculated to repress this natural proclivity of its temporary chief, especially if he desires to retain his place for another term. Confidence in the discretion of their Executive has ever been the bane of republics, from the earliest day; and I speak in the spirit of our own constitution when I say that, instead of such confidence, it inculcates distrust in every line. Under the influence of this spirit, I denied the claim to this identical power, when it was asserted by the immediate predecessor of the present incumbent of the Presidential chair; and under the same influence I now deny it to him. In the discreet exercise of all the powers conferred upon him by the constitution, he ever has had, and ever shall have, my sincere and cordial support; but whenever he oversteps the limit there prescribed, I will oppose his lawless acts with the same zeal and freedom I have ever heretofore manifested upon other like occasions. Has he done so in the instance before us? This is the question to which I now invite the attention of the Senate.

Mr. President, whatever may be the opinions of some as to the inherent powers supposed to be enjoyed by this body, or some other departments of this Government, I think we must all agree that the Executive has no such inherent or undefined authority. All his powers must be derived under some express grant contained in the constitution. Inherent power in him would be but a courtly term to denote prerogative; and the exercise of any ungranted authority by him is nothing else than mere usurpation. Let us then turn to the charter, and see if that contains the concession of any such power as has been here exerted.

It is true that the first section of the second article of the constitution vests in the President "the Executive power;" and equally true that the power which has been exercised upon this occasion, is properly an Executive power. Therefore, if there was no other provision in the constitution upon the subject than this, no doubt would exist that the President was authorized to do that which he has done. But the constitution does not stop here. Very soon after this general grant of the Executive power, and in the next section of the same article which contains the grant, the constitution proceeds to check and restrain the power so granted, by prescribing the manner in which alone the President must exercise it. Thus, in the second paragraph of the second section of this same second article, it declares that "he shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur:" and then, that "he shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court; and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law." Hence, it is obvious, that, although the Executive power is vested in the President alone, he is expressly inhibited from making treaties, (if indeed that is an Executive power,) or appointing to any office of the United States, (which certainly is such,) without the advice and consent of the Senate. But the officers in question never have been nominated to the Senate, nor has this body advised or consented to their appointment in any way; therefore, the act of the President in conferring these appointments without the concurrence of the Senate can derive no sanction or support from this part of the constitution.

If this act can be justified at all, its justification must be sought for in the next paragraph of the same section, which declares that "the President shall have power fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." This is the only part of the constitution which has affinity to, or connection with, the power in question. Let me then inquire whether the desired justification can be found here.

The general rule is such, as I have read it from the constitution, that appointments to office must be made by the President "by and with the advice and consent of the Senate." Under this rule, the President alone has no more authority to appoint without nominating to the Senate, than the Senate have to advise the appointment of one not nominated by him. The exception to this rule is contained in the clause I have just read. But to bring the case within the purview of this exception, and so to take it out of the operation of the rule, these three things must occur: There must be a vacancy—this vacancy must have happened—and this happening must have taken place during the recess of the Senate. Unless all these things concur, the President can find no support for the power he has exercised, in this exception. Now I undertake to show that, instead of the concurrence of all these events, not one of them existed on the 12th day of September, 1829, when these appointments were made by the President alone.

Mr. President, as this constitution was certainly intended by its authors to be exhibited to the people, to the end that it might be read and understood by them, in order that, when understood, if approved, it might be adopted by them, I have ever believed that the true rule of construing

it was to give to all its familiar terms their popular signification at the time of its adoption. In that sense, such terms were probably first used; in that sense, they were certainly afterwards understood; and, being adopted in that sense, their signification should ever afterwards remain unchanged. If this is not so, then indeed is the constitution "a mere nose of wax," which may be pressed into any shape, not only by designing and ambitious statesmen, but by every drivelling philologist or moon-struck metaphysician who may choose to amuse himself by a dissertation upon the ever-varying meaning of words.

Trying the provision I am now considering by this rule, I ask of every honorable Senator here present, if any doubt ever did exist among the people of the State he represents, as to the meaning of the terms "vacancy in office." Throughout our whole land, their meaning was and is the same. Everywhere, and at all times, except in yonder public edifices, they have been considered as denoting an actual existing office, which, having been once filled, by some cause has afterwards lost its incumbent, and is so made vacant. The idea of actual vacancy, in mere possible offices, which never had been, and never might be, filled, is much too subtle to have been suggested by the wisdom which dictated, and much too refined for the common sense that adopted, this constitution. Original existing vacancy, in non-existing and merely potential offices, like original sin, is a mystery. Faith in revelation may oblige us to adopt the belief of the latter, but each surpasses the power of unaided human reason; and if we yield assent to the former, like good Catholics we must say, *Credo quia impossibile est.*

If, however, any doubt could exist as to the meaning of this term "vacancy," when regarded alone, all such doubts must vanish when we examine its context, and consider it in connection with the other words with which we find it here associated in the constitution. According to these, it is not every vacancy which the President may fill up without the advice and consent of the Senate, but such vacancies only as "may happen;" and which may happen too "during the recess of the Senate." Now, according to the common signification of the term happen, it is never applied to denote certain events, but it is applicable to denote such occurrences only as casualty may produce, which are therefore either unforeseen, or if seen, as possible in themselves, are quite uncertain as to the time of their occurrence. We should not speak reverently certainly, should we say that the sun happens to rise, or that the tides happen to change. There is nothing fortuitous in these events; they are foreseen, foreknown, and must occur, until it pleases Him who has so ordained to change the order of his own providence. With as little propriety might we say that our chief magistracy happens to be elective, or the tenure of our judicial offices happens to be during good behavior. These things too are predained. Yet we may well say of the death, resignation, removal, or disability of an officer, that it happens; because, even where the event is certain, the time of its occurrence is unknown and uncertain.

But if we could refer this term "happen," which denotes casualty only, to the occurrence of events pre-ordained by the constitution itself, still the happening of such events must take place during the recess of the Senate, to enlarge the general power of the President. Then, if we could adopt as real this mere vision of existing vacancy in non-existing but possible offices, we should not aid him much by such a subtle refinement. For even if the office always existed potentially, it was always actually vacant, until it was once filled; and who can properly affirm of such an original and eternal vacancy, that it happened during the recess of the Senate, rather than during its session? Unless it happened during the recess of the Senate, however, the President has no power to fill it up without their advice and consent.

Mr. President, this question is much too important, as I have shown, I think, for me to permit it to rest even here. What I have said, I should consider as sufficient upon any ordinary occasion; but I will endeavor to make it so plain, that there shall not remain a loop whereon to hang a doubt.

It is a sound and obvious rule for the construction of every instrument, that where the same words are repeated in it, they must always receive the same interpretation. Therefore, whenever we can fix their signification beyond doubt, in any one instance, that meaning must ever afterwards be attached to them, when they again occur, unless the context shall plainly show that they were used in a different sense. Now an inspection of the constitution will show that the words used in the clause I am now examining, have been used twice before in the same instrument. They are there used, too, under circumstances which defy doubt as to their signification; and their true interpretation has been fixed and settled, not only by the decisions of this body, but by the uniform and unvarying practice in all the States, from the year 1789 to this hour. In this practice, every one, and at all times, has acquiesced; and if there can be any thing settled under a written constitution, it is the meaning of these words.

It is the purpose of the very first article of the constitution to create a House of Representatives as one of the branches of the legislative department. Therefore, in the first part of the second section of that article, it prescribes the rule for ascertaining the number of which this House shall consist; and by whom, and for what term, this number shall be chosen. Having thus provided a full and complete House of Representatives, the authors of the instrument, foreseeing that casualty might vacate the seats so filled, and this during the term for which their incumbents had been elected, proceed in the fourth paragraph of the same section to

provide for such events, by these words, "when vacancies happen in the representation from any State, the Executive authority thereof shall issue writs of election to fill such vacancies." Here then is an office created by the constitution itself, which the Executive of every State is imperiously required to fill in the mode prescribed, whenever vacancy shall happen in it. Then, the moment this constitution was adopted, there was not a merely possible office, but one of actual existence, as to the filling of which no discretion existed, provided this original vacancy could be considered as referred to by the terms I have read. But never did any Governor of any State conceive that this provision gave to him any authority to issue writs of election to supply these original vacancies. No such example exists; and such a procedure would be so obviously absurd, that any Governor who should have attempted it, would have been considered as deserving a straight-jacket. Yet the power conferred upon the Executive of any State, by the words here used, is precisely that conferred upon the President, by the same words, in the case to which I have before referred.

So, too, the members of the House of Representatives are directed by this constitution to be chosen for two years. Biennially, then, all the seats in that House are made vacant by the constitution itself. Here, then, are actual vacancies in established offices, that have been once filled. But no Governor of any State has ever felt himself authorized to issue writs of election to fill even these vacancies. And why? Because all such vacancies being caused by the constitution itself, were therefore foreseen and foreknown, and cannot properly be said to happen. Hence they are referred to the general rule, and not to the exception, which applies to casualties only.

Again: The constitution having provided a House of Representatives, next proceeds to provide a Senate, as the other branch of the legislature. This is done by the third section of the same article. This section commences, as in the other case, by declaring of what number the Senate shall consist, and by whom, and for what term, the members shall be chosen. Having thus provided a full and complete Senate, the authors of the instrument, foreseeing that vacancies might occur during the term prescribed, in the seats once filled for that term, proceed, in the next paragraph of this section, to provide for supplying such vacancies, by these words, "if vacancies happen, by resignation or otherwise, during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies." Here, again, we have original vacancies in offices created by the constitution. To these vacancies no Governor of any State ever presumed to make any temporary appointment, because, they were original vacancies, and therefore were not embraced by the words of this exception.

Here also are presented the cases of other vacancies, occurring after the place has been once filled, produced not by any casualty, but by the foreseen and foreknown efflux of time. Our journals show us two attempts by the Governors of States to supply vacancies of this sort. One is the case of Mr. Johns, from Delaware; the other that of Mr. Lanman, from Connecticut. In both these cases, the seats were vacated by the efflux of the time for which their former incumbents had been elected. In each case the Legislature of the State had made an ineffectual effort to appoint a successor, but had failed, not being able to agree in a choice. After the adjournment of the legislatures, the seats being still vacant, the Governors undertook to fill them by temporary appointments. But in both cases, upon the exhibition of the credentials granted to these gentlemen, the Senate refused to permit them to qualify, because the Governors of these States had no authority to make temporary appointments to such vacancies as these.

Here, then, is a second example of the occurrence of the same terms, where their meaning is not only obvious from the context, but has received the solemn and repeated sanctions of this body itself. This meaning, so fixed and ascertained, is found to be in exact accordance with the signification attached to the same words, in the former case. Then, who can doubt as to the meaning of the same terms when they next occur, in the clause to which I first adverted? Here, too, the framers of the constitution, having prescribed a rule for all appointments to all offices, and required that they should be made by the President, by and with the advice and consent of the Senate, foreseeing that vacancies might afterwards happen in these offices during the recess of the Senate, when the public exigencies might nevertheless require such vacancies to be filled up, wisely and providently gave to the President alone the power of filling up all such vacancies. But they had no more idea of giving to the President alone the power of creating offices during the recess of the Senate, than they had to give to the Executives of the different States power to issue writs of election to fill original vacancies in the House of Representatives, or to grant temporary appointments to supply such vacancies existing in the Senate.

Mr. President, let me present the subject to the Senate under another aspect. Whatever differences of opinion may exist as to the origin of our different offices, I think we must all agree that the power of the President is the same, in regard to appointments, to them all. The constitution, in authorizing him to nominate, and, by and with the advice and consent of the Senate, to appoint to all offices, draws no distinction in the mode of appointment to any; and his separate power over all vacancies which happen during the recess of the Senate is the same, no matter what may be the origin or nature of the vacant office. Then, if his power over all is the same in both cases, let us

examine the different subjects to which this identical power may be applied, and perhaps we may so discover the nature of the power itself.

According to the opinion of some, there are three different species of offices referred to in the constitution: such as are created by statute —such as are created by the constitution itself —and such as, being established by the usages of nations, are merely recognized by the constitution. Most of our domestic executive offices are examples of the first kind; the Chief Justice, and his associates of the Supreme Court, are examples of the second; and ambassadors, other public Ministers and consuls, are instances of the last. Now with respect to all offices of the first class, that is to say, offices created by statute, it is very obvious that original vacancies in these can never occur during the recess of the Senate. Because, as these offices derive their existence from a statute, which statute can only be enacted during the session of the Senate, and as these offices when thus created must be vacant, all original vacancies in statutory offices must occur during the session, and not during the recess of the Senate. Consequently, the President can have no power to fill up such vacancies.

There never has been but a single instance of an attempt by any President to fill up such vacancies during the recess of the Senate. This attempt was promptly met by the Senate, who, not content with rejecting the nominations afterwards made of the military officers who had been so appointed, referred the subject to a committee. Their report, presenting, as it does, a clear and sound exposition of this part of the constitution, and an able vindication of the violated rights of the Senate, received the confirmation of this body, whose views were afterwards assented to by the Executive, as we all know. Then, no doubt exists that the President alone has no authority to make an original appointment to any statutory office.

The offices of the judges of the Supreme Court are the only description of offices of the second kind. These offices are created by the constitution itself, and are thereby required to be filled up. Here then is the case not of potential, but of actual offices; not of possible offices that may or may not be required to be filled up, but of existing offices ordered by the constitution itself to be supplied with incumbents. Yet, President Washington, during whose term these offices were all so vacant, and thus continued for a long time, never thought that he possessed the power to fill them up, until after the enaction of the judiciary law; and did so then only by and with the advice and consent of the Senate first obtained.

Nor could he have done otherwise. For until the passage of this act of Congress, how could he know what number of judges to appoint —what would be their salaries—where they were to convene—what might be the duties required of them—or what the rule to regulate their process and proceeding—nay, by what other means could the court have been supplied with a clerk, a marshal, or any other ministerial officers, indispensably necessary to the proper performance of their functions? It would have been as absurd for the President to have made the appointment of judges before the enaction of this statute, as it would have been for the Governor of a State to have issued writs of election before the Legislature of such State had passed the laws necessary to give effect to that provision of the constitution which required the members of the House of Representatives to be chosen.

In aftertime, when none of these difficulties existed, and the number of the judges of the Supreme Court was increased, although the new judge, when duly appointed, like his associates, was in under the constitution, yet it was conceded on all hands that the office, although required by the constitution, was established by the law; and, therefore, becoming vacant during the session of the Senate, the President could not fill this vacancy during the recess, but must make the first appointment to it, only by and with the advice and consent of this body.

When we thus see that the President cannot make an original appointment to any office created either by statute or by the constitution, because the vacancies in such offices cannot properly be said to happen during the recess of the Senate, is it fair to argue that he has authority to make such appointments to the other class of offices which are established not by statute but by usage merely, and which are not required, but merely recognized by the constitution as of possible use? Does not every argument applicable to the case of the judges of the Supreme Court, apply *a fortiori* to these offices? Of how many ministers must the new mission consist—who and of what character shall be the *attachés* to the legation—what shall be the compensation allowed to any of the mission—and for what term may they hold their offices? All these are questions which must be decided before such appointments can properly be made; and the decision of each of these questions by the President alone is forbidden by the constitution in terms.

And here, Mr. President, I will offer a suggestion to the Senate, which upon my mind has always had much influence. It is not more the object of this constitution to create and confer power, than it is to check and restrain the authorities which it grants. No important authority is thereby granted to any department of this Government, unless it is limited and guarded in its exercise, by some means or other. Speaking generally, the judiciary can establish no rule which the Legislature may not abrogate, can pronounce no decree which the Executive may not refuse to execute. The Executive can do no act, against which the judiciary may not relieve, which the Legislature may not annul, or to which they may not refuse to give effect. The Legislature itself can enact no law without

the assent of the Executive, and which is not subject to the revision of the judiciary, whenever it comes in conflict with the constitution. And the States, in virtue of the rights reserved by them as parties to the original compact, may watch over and control the joint or several action of all and each of the departments of this Government, so as that none may pass beyond its prescribed limits. Now can any one believe, that in such a system, so intended and so contrived, it ever was designed to confer the vast power which has been exerted upon this occasion, (which, as I have shown, touches and influences our best and dearest interests,) to the uncontrolled discretion of the President alone? The plain language of the constitution (as I think I have now proved) repudiates any such idea; and if this language was even doubtful, the spirit which dictates every line of that instrument, ought to suffice to solve any such doubt.

I have heard a single case suggested, to which (as it seems to present a difficulty to the minds of some) I must beg leave to pay a little attention. I have heard it asked, if the President may not fill up any vacancy but one that happens during the recess of the Senate, what would be the condition of the country, if an office, which the public good requires to be filled immediately, should become vacant by death or otherwise, happening during the session of the Senate, and which event could not be made known to the President until after our adjournment? To this question I have several answers to give, either of which, to my mind, is quite satisfactory.

The first is, that it is an extreme case, which must be of very rare occurrence, and the very necessity of which, whenever it shall exist, may well excuse the President for acting upon it, even without any direct authority so to do. But we should be very cautious how we give assent to that species of argument, which would infer the legality of authority in ordinary cases, from mere silent acquiescence in its exercise, when under the pressure of extraordinary circumstances. I certainly would not censure any President for making a temporary appointment during the recess, in this supposed case, even if I thought he had no authority to do so, provided he laid such an appointment before the Senate afterwards. I have no idea, however, of having even necessary medicine administered to me for my daily bread; or of applying this hard law of State necessity, which will override the constitution itself, to such ordinary trahsactions as the case before us, in which this plea of immediate necessity cannot have the slightest application.

My second answer is, that, according to a fair construction of the constitution, the President, in my opinion, has authority given to him to fill up such a vacancy during the recess. Sir, as in all human transactions we can reason only from what we know, and know but little of facts except through evidence, we are generally constrained to substitute this evidence for the fact it tends to establish. It is this imperfection of our nature which often prevents us from regarding as facts what are not shown to us to be such, and obliges us to assert the truth of what is satisfactorily proven, although the fact so established may be most false. Hence, I think it fair to say that a vacancy, not known to exist, does not exist for any of the purposes of the constitution; and when known, it does exist, and not until then, be that when it may. If any Senator should die during the session of the Legislature of the State he represented, but the fact of his death could not be communicated to that Legislature while it continued in session, I take it for granted that the Executive of the State might supply this vacancy by a temporary appointment. I say this, in the spirit of the constitution, whose obvious purpose it is to keep the seats in this House always filled by the Legislatures of the States here represented, where they have an opportunity to fill them, but by temporary appointments from the Executive of these States, in all cases where the Legislatures have had no such opportunity. And the parallel is perfect, I think, between the power of the Executive of a State in one case, and that of the President in the other.

Mr. President, I have now presented to the Senate my views of the constitution, so far as it applies to the matter before us. If I am right in these views, all must agree with me, that the power exercised by the President upon this occasion was without warrant, and therefore unlawful; that it is a manifest violation of the rights of the Senate; and if the act was done with that view, it is a flagrant usurpation of their constitutional powers. I feel very confident that no one here will controvert a single position I have stated. I have advanced nothing new, but have merely repeated the arguments which I urged here in 1826, during the discussion of the memorable Panama subject, when this identical question arose, and was fully examined. Upon that occasion, I was met by Senators of great ability, who, instead of controverting this construction of the constitution, sought to avoid it, by relying upon what they called the precedents. The same course may possibly be pursued again. It is proper, therefore, that I should present some suggestions to the Senate upon this subject also.

Sir, from the first moment I was capable of forming an opinion for myself upon any political question, until this hour, I have always raised my voice against that sort of argument, which, in a Government founded upon a written constitution, seeks to infer authority for the governors from their own practices. The argument (if indeed it deserves such a name) is not fair; for, while it claims the benefit of all affirmative cases, it allows no weight to those which are negative merely. The omission to exert any power for a century, although opportunities fit and proper for its exercise may have hourly occurred during all that time, weighs not as

even the dust in the balance against its actual exertion in a single instance. The argument is dangerous, too, in the extreme. The smallest fissure unintentionally made in the constitution, during the darkest hour of some drowsy midnight session, to let in some pigmy case, too insignificant to attract or to merit attention, by the force of this argument, is soon widened and made a horribly yawning *crevasse*, through which a flood must one day rush in to deluge our fair land. Deeds done in moments of high party excitement, or during the hour of danger to the State, when the safety of the people is the supreme law, by the force of this argument become the parents of similar acts, in other and different times. It was thus the dictatorship was made perpetual in Rome; and the same means cannot fail, in time, to produce some such calamitous event here. It shall never have any force with me. Thus far, and no farther, am I willing to allow any weight to the argument founded upon precedents merely. When any of the provisions of the constitution are of doubtful import, and questions arising under such provisions have been fully and openly examined, so that the people have had a fair opportunity to understand their bearing and influence, the decision of all such questions, if afterwards acquiesced in generally, I shall be disposed to respect; not, however, as conferring power, but as simply declaratory of the true construction of an ambiguous part of the constitution, under which constitution alone power can ever be properly claimed.

In this case there exists no occasion for these cautions and reservations. During the discussion of the Panama subject, we looked into all the precedents. Every case of any original appointment, made by a President during the recess of the Senate, from the first establishment of this Government to that day, was then laid before us, in a document that now remains on our files. Each of these cases was then carefully examined; and it is such an examination which justifies me, I think, in saying that not one of them can properly be considered as a precedent for that which we are now examining. It is true that a superficial examination of some of these cases may seem to justify a different opinion. But, if any one will take the trouble of tracing such cases to their origin, and will inform himself of the state of things existing, at the time of their occurrence, I repeat, that not one of them will be found to apply here. I will not fatigue the Senate by a reference to these cases now; their true character and history was given in the debate upon the occasion referred to; and to that debate, now on record in your Register, I refer all those who may feel any wish to consult it. Our journals furnish us, however, with four cases, which have a bearing so direct upon the matter now before us, that I will take the liberty to state them.

The first of these occurred during the administration of Mr. Jefferson, who, during the recess of the Senate, undertook to make an original appointment of a Minister to Russia; to which court we had not before sent any Minister. The nomination of this Minister was afterwards laid before the Senate when they convened, accompanied by a long letter of the President's, setting forth the reasons which had induced him to make such an appointment. The Senate considered the subject very maturely, it seems, and finally refused to give their consent to the appointment. This scheme was then abandoned; nor was it resumed for many years afterwards, until it was revived by Mr. Madison, acting then by and with the advice and consent of the Senate. I refer to this case, to show the idea then entertained by the Senate as to their right to be consulted by the President in all cases wherein it was proposed to establish new diplomatic relations with any nation with which none such had previously existed; and to show the acquiescence of the Executive in this determination.

The next case occurred in 1814, when, during the recess of the Senate, and "*flagrante bello*," President Madison sent three additional Ministers, to unite in the negotiations at Ghent, with the two others previously appointed by him, by and with the advice and consent of the Senate. These appointments were laid before the Senate at their next session, when the exercise of this power by the President, during the recess of the Senate, called forth that able and eloquent protest against it, which was submitted by Mr. Gore, then a Senator from Massachusetts, and which I read to the Senate when I first addressed them. It is true, this protest was never acted upon definitively. But we all remember the state of things then existing; and the conduct of the Senate, in avoiding any decision of this matter at that time, manifests most distinctly what was the opinion then entertained. If the majority had even doubted, this protest would have been rejected at once. But, as its adoption would have been highly inexpedient at that crisis in our affairs, and its rejection would have been an abandonment of the constitutional rights of the Senate, they very prudently postponed the consideration of the subject.

Next comes the case of the new republics in South America. Everybody knows what was the state of public sentiment upon this subject. Mr. Monroe, the President, was beset on all sides, and most earnestly importuned to comply with the wishes of these States, by sending Ministers to them. But, although desirous to do so, he nevertheless steadily refused, until he had previously submitted the subject to Congress, and had obtained the assent of both Houses. Then, and not until then, did he despatch the Ministers which were appointed by and with the advice and consent of the Senate.

Last is the case presented in 1826 by the Panama message. This is of too recent occurrence to require any comment. It will suffice to say, that the resolution then proposed, which

was declaratory of the rights of the Senate, and denied the claim of President Adams to the power he therein asserted to be his, was laid upon our table by the vote of a bare majority of this body. But many of the members of that majority, in whose presence I now speak, declared at the time that they did not doubt the rights of the Senate to be such as was affirmed. As, however, the President, while asserting a contrary power, had expressly waived its exercise, and had submitted his nominations to the Senate for their advice, the question was so reduced (as they thought) to a mere abstraction, which, however proper to be discussed, it was not necessary then to decide.

After that time, no case has occurred within the knowledge of the Senate until the present. For, although Messrs. Crane and Offley, in 1828, received from President Adams a commission similar to this, yet that fact was cautiously concealed from the Senate. These Ministers never reached Constantinople, and their appointment would not probably ever have been brought to light, unless it had been found expedient now to refer to it as a precedent to justify what was afterwards done by the present Executive. And here, sir, let me appeal to the candor of all those honorable Senators who thought and acted with me during the Panama discussion, to say, if they had known that President Adams had secretly instituted a mission to Turkey during the recess of the Senate, would they not have reprobated such an act, in as strong terms at least as any used in relation to his mere claim of such a power in the Panama case, where the exercise of the power asserted was expressly waived by him. For my part, I know I should have done so; and knowing this, I cannot reconcile it to myself to sit silent, when the same act has been done by another President. Whatever changes may have taken place in the Executive, the constitution remains the same; the rights and duties of the Senate remain the same; and I will always strive to preserve the one, and to fulfil the other.

The cases to which I have thus referred, spreading as they do over a period of twenty-five years now last past, ought to satisfy every one, I think, that the provisions of the constitution and the practice of the Government are in strict accordance. At all events, they must suffice to show, that even if other precedents could be found, much more apposite than any which exist, they cannot prove any uniform practice, any continuous chain of precedents, settling this question of power, which, therefore, we must consider as *res integra*, and decide by a reference to the constitution alone.

Mr. President, the arguments that have been urged in opposition to the opinion I so briefly expressed when I first made this motion, coming, too, from the quarter whence some of them proceed, have excited my surprise almost as much as the power, the exercise of which in this case they seek to justify. I must beg leave, therefore, to invite some attention to the most prominent of these arguments, which seem to me most awful "signs of the times."

An honorable Senator from Louisiana, (Mr. LIVINGSTON,) instead of controverting directly, any proposition which I have advanced, tells us that the construction of the constitution for which I have contended is not so certain, but that wise and good men may well doubt as to its correctness; nay, even adopt a contrary opinion. He does not say that such is his opinion, but satisfies himself with endeavoring to cast the shadow of his doubts upon mine; and then rebukes me for using the strong language I did in expressing it. Sir, if I could feel any of the doubts which this Senator has sought to generate, like him I might regret the use of strong phrases to express an opinion, of the correctness of which I did not feel assured; but, entertaining no such doubts, I have nothing to regret, nothing to explain, and nothing to take back.

And how, sir, is this supposed doubt produced? The Senator from Louisiana says that the constitution is susceptible of two different readings. One, that which I gave as I found it written, and the other this: "the President, during the recess of the Senate, shall have power to fill up all vacancies that may happen." According to this latter reading, he thinks it probable that the President would have the right to do that which he has done. Now, sir, from whence does this honorable Senator derive authority thus to dislocate the members of the sentence, and to re-arrange them according to his fancy? If he is not bound to read the instrument as it is written, he has the same power to amend it, by the substitution of new words, as by inverting the order in which the old words are found, so as to give them a new sense. The gentleman cannot claim the merit even of originality for this invention. It is certainly as old as the days of Swift, in whose amusing "Tale of a Tub" we read that the same device was practised upon the testament there mentioned. The three brothers not being able to find the permission they desired, written therein *totidem verbis*, sought for it *totidem syllabis;* not finding it even then, they tried to make it out *totidem literis;* and it was only when they failed in this, too, that they found themselves under the necessity of changing the orthography. Had they lived in the present day, they might have saved themselves much trouble, by merely altering the name of what they wished, and bestowing upon it some new denomination.

Do not the Senate perceive what would be the effect of this new reading of the constitution, if, as the Senator from Louisiana would persuade us, it was permissible to adopt it? Read as it is written, and these words, "during the recess of the Senate," denote the time within which the vacancy must happen, which vacancy the President alone is authorized to fill up: but, according to this new reading, these words denote the time within which the Presi-

dent may exert the power of filling the vacancy, happen when it may. Then, the President would need but to wait until the Senate adjourns, and he would have authority to fill up all vacancies. Nay, should he graciously please to refer his appointments to the Senate afterwards, and they should reject them, instead of watching a fit occasion to renominate, the President might wait for the adjournment, and then reappoint the same individual; and so on, *toties quoties*, to the end of the chapter. A more summary method to divest the Senate of all authority, and to invest the President alone with complete power over all appointments, could not well be devised. Instinct informs the very brutes of their common danger, and of the quarter from whence it may be expected; and surely arguments such as this should put us upon our guard.

An honorable Senator from Maryland (Mr. SMITH) tells us that he has never doubted upon this point—that he has ever been of opinion, the President might institute what missions he pleases, without consulting the Senate or anybody else—that he so said, and so voted, in the Panama case, and therefore shall so vote in this, which is precisely similar to that. This is all very true; and I bear my willing testimony to the perfect consistency of that honorable Senator in these cases. I wish I could prevail upon him, however, to convince my friend from Illinois, (Mr. KANE,) that these cases are precisely similar. It would relieve me very much if he would do so; for I feel sensibly the awkwardness of my present position, opposed on the one hand by those who opposed me in the Panama case, because this is the same question there presented; and opposed on the other by those with whom I then agreed, because this is not a similar case. It is not for me to reconcile such contrarient opinions. All I can do, is to oppose to the Senator from Maryland the argument urged in the Panama case, which I agree with him is precisely similar to this; and to endeavor to satisfy my friend from Illinois, that his distinctions constitute no difference between the principles involved in each.

In what, sir, is any difference to be found between the two cases? It is true, that was the mere assertion of a right to power, the exercise of which was waived at the very moment it was claimed; and this is the exertion of the same power then asserted merely. But surely this barren claim, waived when preferred, presents not so strong a case, as the actual exercise of the very power then waived. The two cases, although not similar in their facts, present the same question; and every argument applicable to the one, applies *a fortiori* to the other. The honorable Senator from Illinois, I am sure, will not say, that because the one set of Ministers was to be sent to Panama, and the other to Constantinople, that this difference of their destination can constitute any distinction between the principles of the two cases. Nor will he say, that because one set of Ministers were sent to a Congress of the Ministers of several nations, and the other to a single nation only, that this mere matter of number can vary the question as to the constitutional right of the President to appoint either. In what, then, does the difference consist?

The honorable Senator from Illinois says, that, in the Panama case, the persons proposed to be despatched were to be public Ministers; but the persons actually sent in this case were commissioners only. Does he mean to say that this mere change of appellation alters the thing named? The poet would tell him that "a rose by any other name would smell as sweet;" and I am sure he would not agree that his hat was not one, because many of his townsmen call it a *chapeau*. But see, sir, what a broad gate is here also hoisted, to let in the flood of Executive power and patronage. An act is forbidden when called by its true name; yet change but the name, and the same act at once becomes justifiable and proper. There might be some hope of an end to this, if those who seek to get power in this way, were constrained to tax their own invention for new names to denote old things, for as there must be some limit to human wit, "when the brains were out, the thing might die!" Unfortunately, however, the work is already done for them; and a Secretary of State has but to turn to the mere index of his *code diplomatique* and he will there find a long list of the names of public functionaries, who have been employed by different potentates, at various times, which list may serve as a perennial fountain of power.

Let me give an example of the case with which this work may be done. The constitution authorizes the President, by and with the advice and consent of the Senate, to appoint ambassadors and other public Ministers. It is desired, however, to appoint such without consulting the Senate, lest they may not be willing to establish any such offices. Turn to the code, and you may there find that the ambassador of the Pope is not distinguished *eo nomine*, but is termed a legate. For, as an ambassador represents the person of his master, and as the sanctity and infallibility of his Holiness cannot be represented, he therefore cannot have what is commonly called an ambassador. To show, however, that this legate is in very truth the personal representative of his sovereign, he is sometimes styled a legate *a latere*, that is to say, he is supposed to be taken, like our imprudent mother Eve, from the side of his lord and master, and therefore may very properly be identified with him. So, too, if the Pope wishes to send a minister plenipotentiary or other negotiator, to any of the Catholic princes, his beloved children, as it would be quite unseemly for the holy father (whose wishes must be commands to them) to send to them any officer whose very title imports negotiation, his Minister upon such occasions is styled a nuncio, a mere messenger, deputed to bear the will of the father to these his dutiful children, which

will, to be observed, needs but to be known. Now, as this republic is a mere artificial body; and as around and within it there are many who constantly distinguish the President as their "great father," it would not require much ingenuity to find out some similitude between his office and that of the Pope. Then, as the constitution says not one word about legates or nuncios, all that is necessary to attain the desired end, would be to fill the blank in the commission with such words; when, according to this argument of the Senator from Illinois, the President alone would so acquire power to do the very act which he is forbidden to do, if this blank was filled by the proper name.

[Here Mr. KANE interrupted Mr. TAZEWELL, observing he had not meant to say that the mere change of a name of any public Minister would authorize the President to appoint one; but that he had said these commissioners were not public Ministers at all. They were secret Ministers or private agents, like those formerly sent to South America, or the persons frequently sent with despatches. The appointment of none of these had ever been submitted to the Senate, but was always made by the President alone, because such appointments were not especially provided for in the constitution.]

I thank the gentleman for this correction. I really had no idea that it was his purpose to draw a distinction between public and secret Ministers. My impression was, that his distinction was run between public Ministers and these commissioners, who were not supposed to be public Ministers, because they were not so called; and I was about to show that the officers were the same, although their denomination was different. However, the Senator from Illinois has relieved me from this trouble. Let me then inquire, whether his actual argument is more conclusive than that which I had supposed him to have used.

And, first, sir, let me ask my friend from Illinois, if these commissioners were not public but secret Ministers, according to his sense of these latter words, whence the President and Senate together, much less the President alone, can derive the right to appoint them? The constitution gives to the President the power to nominate, and, by and with the advice and consent of the Senate, to appoint public Ministers: but it would be as difficult, I believe, to find any authority in it to appoint secret Ministers who should not be public Ministers, as it would be to conceive the idea of a private agent, appointed to perform the public duty of negotiating a treaty, which, when ratified, is declared to be the supreme law of our land. I pray we may not confound the character of the Minister with that of the duty conferred upon him, or with the mode in which he may be directed to perform his duty. Doubtless, under that provision of the constitution which authorizes the appointment of public Ministers, the President, by and with the advice and consent of the Senate, may appoint such Ministers secretly. They may be instructed to depart secretly. They may be accredited secretly. They may negotiate (as they generally do) secretly. Nay, they may conclude a secret treaty, which need not be made known until a fit occasion arises to give it the effect of a law by promulgation. In this sense, such Ministers may properly be termed secret Ministers; but they are nevertheless public Ministers. Because they are the Ministers of the public, commissioned by its Government, authorized to perform its business, and accountable to the public for all their acts and omissions under their commission. In one word, sir, they are public Ministers secretly appointed, and with secret instructions, but they differ in nothing else from all other public Ministers, inasmuch as their commissions are precisely the same in both cases. Any other idea than this would present a subject here of quite as much mirth as the comic scene of Sheridan, in which he describes a secret conference of two British Ministers, in the presence and hearing of the sentinels at Tilbury fort, when one tells to the other as a profound secret what he declares the other knew before. A secret agent created by letters patent under the great seal, given to him to be shown, and addressed to all whom it may concern. This, sir, would far surpass the sarcastic irony of the author of "The Critic."

Let me not be misunderstood. I do not mean to doubt the power of the President to appoint secret agents when and how he pleases; nor do I mean to advance any claim on the part of the Senate to participate in the exercise of any such power. As a simple individual, I would humbly suggest to him, if I might be permitted so to do, that whenever he stands in need of secret agents who are really designed to be such, he had better abstain from putting his own name to the warrant given to them, and never permit it to be authenticated by the great seal. Such a proceeding may sometimes prove hazardous, and I think would not be very creditable to the nation whose seal it is. But as a Senator, I do claim for the Senate, in the language of the constitution, the right of advising and consenting to the appointment of any and every officer of the United States, no matter what may be his name, what his duties, or how he may be instructed to perform them. And it is only because secret agents are not officers of the United States, but the mere agents of the President, or of his Secretaries, or of his military or naval commanders, that I disclaim all participation in their appointment.

It is this distinction between officers of the Government, and the mere agents of its officers, which constitutes the striking difference between the cases referred to by the Senator from Illinois, and that now before us. In this case, these commissioners were officers of the United States—commissioned as such—authorized by that commission to pledge our faith and honor—entitled, as the bearers of our great seal, to be regarded everywhere as the repre-

sentatives of the sovereignty whose emblem it is; and to claim all the immunities accorded by the public law to such representatives of any power on earth. Whereas, your secret agents in South America, your bearers of despatches or newspapers, *et id omne genus*, never had any commission—had no authority to pledge your faith—were never trusted with your great seal—and had not a single privilege anywhere, which any other individual citizen might not equally well claim. In short, they were not officers of the United States, but the messengers (either special or general) of their officers. Sir, it mortifies me to hear the high functionaries of the nation degraded by a comparison with such gentry as these; and their secret commissions assimilated to the warrants of messengers, or the secret letters to spies. I know but one of these commissioners personally; but of him I will say, that the same lofty spirit which refused to bring his ship to Constantinople, unless with her ports triced up, her guns shown, and her flag and pennants all abroad, would have made him cast your parchment from him with scorn, if it had even been hinted that it was intended to constitute him any other than a public Minister of his country, whose honor and whose interest he had so proudly sustained.

But, Mr. President, the question is not whether these commissioners were what the Senator from Illinois calls public Ministers, but whether they were officers of the United States; for the President may not make an original appointment of any such officers, without the advice and consent of the Senate. To determine this question, you must look to their commission. This you find in the same form with every other; and if you will but consider its effects and consequences, none can doubt that it constituted them officers of the United States. Suppose that the Grand Seignior, after accrediting these commissioners, had sent them to the Seven Towers, must not everybody admit that the honor of this nation would have obliged it to resent the insult offered to itself by such an indignity to its representatives, protected, as they would have been, by the public law? Or suppose that any of these commissioners had been bribed, or had been guilty of any other high crime against their faith and the duty confided to them. Does any one doubt that they might have been impeached? And yet, forsooth, they are not officers of the United States, but mere secret agents, like the bearers of despatches or newspapers, who, as we all know, receive as little consideration at home as they are entitled to expect abroad.

The honorable Senator from Maryland, notwithstanding he affirms this to be exactly like the Panama case, and therefore clear, yet endeavors to distinguish it a little, in order to make it clearer than that, if possible. He tells us that one of these commissioners, Mr. Rhind, was regularly appointed consul at Odessa, by the President, acting with the advice and consent of the Senate, given at our last session. That he being thus an officer of the United States, the President might charge him with whatever instructions might seem necessary, even to negotiate a treaty with Turkey. It is so common in this country (where the thirst for office is insatiable) to continue the titles of Governors of States, and militia officers, to those who have once filled such places, not only wherever they may be, but so long as they live, that I am not surprised the Senator from Maryland should feel disposed to enlarge this custom a little; especially when a barren name may be made the fruitful parent of so much executive power as he thus claims for it. Henceforward, we must not only say, I suppose, that once a consul, and always a consul, but, also, that once a consul anywhere, and always a consul everywhere. Nay, if it be true that this consul to the Russian port of Odessa may, *virtute officii*, be metamorphosed by the mere instructions of the President, or rather of the Secretary of State, into a negotiator at Constantinople of a treaty with the Ottoman empire, it will be very difficult to find a limit to consular functions. Thus, that thing called a consul, the lowest in the diplomatic scale, without pay, power, or privilege, may be converted into the most important functionary the United States can have abroad. Sir, it would have been a subject worthy of Hogarth's pencil, I imagine, to have represented the interview between Mr. Rhind and the Reis Effendi, the proud representative of his haughty sovereign, if, when they first met to exchange their powers, the "christian dog" had presented to him a consular diploma to Odessa, as the equivalent of his full powers. It would gratify me much to hear from anybody what would have been the state of the negotiation, if, *pendente lite*, the Russian autocrat had revoked Mr. Rhind's *exequatur*, and so terminated his functions as consul at Odessa. But suppose we might thus justify Mr. Rhind's appointment, what is to be said for Biddle? He was no consul to Odessa, nor anywhere else; nor did he bear any diplomatic authority, save what this commission conferred upon him. It is true that he bore, and gallantly bore, the commission of a post captain in the navy of the United States; but surely it will not be contended that a naval or military officer may, *virtute officii*, be transformed into a diplomatic functionary of the highest grade, by the mere instructions of a Secretary of State, or a simple order of the President alone. The officers, I am sure, ought to object to this; for if so little ceremony is necessary in the one case, as little would be requisite in its converse; and when naval officers may, by a word from the President, or his Secretaries, be converted into public Ministers to negotiate treaties, the latter, by a process equally summary, may be made the commanders of our fleets and armies.

But the President himself has answered this argument. He did not suppose that orders and instructions alone would authorize consuls, post captains, or anybody else, to make treaties.

He knew well that a plenipotentiary commission was requisite, and therefore granted these "letters patent" for that very purpose. Nor will he, I should think, feel much obliged to the honorable Senator from Maryland, for the imputation necessarily implied in this argument, the sum and substance of which is, that meaning to negotiate a treaty with Turkey, and to conceal this his object from the Senate, the President nominated to them, as a mere consul to Odessa, him whom he had appointed a minister plenipotentiary for that purpose.

Mr. President, there is one more argument which I see I have to answer, and then I will have done with this part of the subject. The honorable Senator from Illinois (Mr. KANE) tells me that I come too late; that the Senate have already advised the ratification of the treaty; and, by so doing, have approved the appointment of the ministers who negotiated it. Therefore, I am now estopped to urge any objection to these appointments. For my particular emancipation from this supposed estoppel, I appeal to the knowledge of all my brethren of the Senate, who have heard my protestations, and witnessed my continual claim to the right which is now sought to be barred by this strange limitation. Nor can I permit this argument, as applied to the Senate, to pass unnoticed. As doctrine it is not correct, however certain it may be as fact.

I come too late. I stand here to vindicate the sanctity of the constitution which has been violated—to assert the high privileges of this body which have been infringed; and here, even here, in this its very hall, I am told by one of its honorable members, that I come too late! I know it, sir; I do come too late. "'Tis true; and pity 'tis, 'tis true." But it is only true as fact, and not as doctrine. I cannot undo what has been done, or prevent the wound that has been already inflicted—for this, I do come too late. But I do not come too late to warn those who sent me here, that their constitution has been violated. I do not come too late to satisfy those with whom I am here associated, that their chartered rights have been impaired. I do not come too late to heal those wounds which ought not to have been inflicted, or to strive to prevent the repetition of such injuries in future.

Nor does the estoppel which has been relied upon, constitute even a just technical objection to the assertion of the high privileges which I have proposed to maintain. There is no connection between the ratification of a treaty, and the appointment of the persons commissioned to negotiate it, except what concerns the foreign State. To the Grand Seignior we need not, we must not say, that we ratify the treaty concluded with him, but deny the authority of the persons appointed by ourselves to negotiate it. It would be idle, nay, it would be base to do so; for he would hold up to us the "full power" granted to these negotiators by our own Chief Magistrate, under the sacred seal of our own nation. This, indeed, we are estopped to deny to him; nor would it comport with the character of our people, to suffer any other earthly sovereign to pass upon the question raised, as to its misuse. But here, at home, it seems somewhat paradoxical to say that we may not deny to ourselves that which it is affirmed by ourselves that ourselves have done. This would be a most extraordinary estoppel indeed.

Short as is our history, it nevertheless furnishes several examples of Ministers who have exceeded their instructions, and of officers who have violated their orders. Reasons of policy have induced the Government to adopt some of these acts, and to justify others to foreign States. But, until now, it has never been supposed by any, that these reasons of State policy were of sufficient force to preclude all inquiry into the breaches of our own laws, much less into the violations of our constitution itself. A treaty is ratified, no matter how or by whom concluded, whenever it is believed to be promotive of the public good. But if this ratification necessarily implie a justification of a violation of the constitution, in the appointment of the negotiators; and if by such ratification we are estopped to deny this, then, indeed, has the time come, when our opinion of the general welfare is the substitute for the requirements of the charter.

But how does this question come before us? An amendment to an appropriation bill is here proposed, the object of which amendment is to authorize the expenditure of more of the public revenue than was contemplated by the other House, where the bill originated. If this amendment obtains, the bill so amended must be sent back for the approval of the House of Representatives. When there, who will be hardy enough to affirm that these constitutional guardians of the money of the people are estopped from inquiring into the fitness of granting what may be asked, and of the mode in which the grant should be made? Such an affirmation would be carrying the claim of Executive power to an extent never before heard of. Yet it must be conceded on all hands, that the power of the Senate over this appropriation bill is precisely the same, neither greater nor less, than that of the other House. What then becomes of this doctrine of estoppels, urged upon the Senate to prevent the assertion of their constitutional rights?

Mr. President, I have now done with this part of the subject; and I will detain you but a few moments in examining the second question. In discussing this, I am obliged to concede, *gratia argumenti*, that the President, during the recess of the Senate, might lawfully have instituted this mission, by making these original appointments. Yet, granting this, I nevertheless contend that it was his bounden duty to have submitted to the Senate at their next session the temporary appointment of these Ministers. I have not heard a single suggestion even whispered in excuse, much less

in justification of this omission, except the fact supposed by the honorable Senator from Illinois, which he must pardon me for saying, whether it may be as supposed or not, does not, in any way, alter the case. Nay, this solitary argument itself implies, that if the fact be not as is supposed, this omission has no defence.

My friend from Illinois says, and says very truly, that if the commission granted by the President to these Ministers, on the 12th day of September, 1829, was properly granted, it would have continued in full force until the end of the next session of the Senate, that is to say, until the 31st of May, 1830; and this without the advice and consent of the Senate. He then argues that the treaty was concluded on the 7th of May, 1830, whereupon these Ministers became *functi officiis*, ceased to be the officers of the Government, and therefore it would have been quite idle and unnecessary for the President to have nominated them to the Senate.

Now, if all this should be granted, it constitutes no justification to the Executive, because it is obviously an afterthought that could not have occurred to them until long after the session of the Senate. If Washington and Constantinople, instead of being separated as they are by two seas, were connected by a railroad, along which the conveyance might be as rapid as between Liverpool and Manchester, the intelligence of any event occurring in the Turkish capital, on the 7th of May, could not be communicated much beyond the Western islands by the 31st of that month. Then the demand is of an impossibility, which would have us suppose that the Executive knew of the conclusion of this treaty, and therefore did not make the nominations of these Ministers to the Senate during their last session. And the question is to be tried, not by the fact, but by their knowledge of it. I pray the Senate to notice the various and contradictory modes resorted to for enlarging the power of the Executive. If Mr. Rhind had died on the 7th of May, and it had been judged expedient to fill up the vacancy happening by his death, all agree that the President might properly have done so during the last recess. Because, although this event happened, it could not have been known here during the last session of the Senate. But if Mr. Rhind makes a treaty on the same day, this after-discovered fact, although equally unknown to the President when the Senate adjourned, is urged to justify him for not laying Mr. Rhind's appointment before the Senate at their last session, although this appointment was made here (and therefore well known) eight months before that session terminated.

Is it a fact, however, that this treaty was concluded on the 7th of May? It is true the instrument bears that date; but we all know that it could not have been then concluded. Because it is absolutely certain that two of the commissioners had not then reached Constantinople; and that, without their approbation, even the Turkish Government would not consent to consider the project as a treaty concluded. When then was it concluded? Certainly not so late as the 29th of May. Because we have on our files a letter of that date, written by one of these commissioners to another, urging many arguments to induce him to sign it. On the next day, (the 30th,) another commissioner writes to the Secretary of State, saying that he had that day signed the treaty; but there is no evidence before the Senate, showing when it was signed by his associates.

Suppose, however, that it was signed by all the commissioners on or before the 30th of May. The instruments were still to be exchanged before the business of the negotiation could be concluded; and we have the strongest presumptive evidence that this was not done on that day in the fact apparent upon our own journals that the 30th of May last was Sunday. Now does any man believe that these ministers of a Christian people would have thus publicly profaned the Christian sabbath at a Mahometan court, and under the view of all the Ministers of the powers of Christendom there convened? I do not put this even upon the ground of their Christian faith, but upon the ground of national pride and national honor, always involved in the conduct of the nation's Ministers. My life upon it, there is one of these commissioners who would have willingly suffered even impaling before he would have so degraded himself and his country in the eyes of all Christendom. But if this work was not completed on the 30th May, it could not have been done until the 31st; and on the morning of this day our journals show that the Senate adjourned. Now, whether the exchange of the treaties, (if made on that day,) or the adjournment of the Senate, took place first, is a question which I will leave to be decided by those who can better calculate the difference of longitude, and who may know more of the etiquette of the Turkish court than I do. This is done the more readily, because I am satisfied that the work was not completed until the 1st of June. For I find a letter of that date addressed to the Secretary of State, enclosing a copy of the treaty, and giving the first intelligence of its conclusion; and I take it for granted that these commissioners would have lost no time in communicating to their Government the consummation of this tedious affair.

Let it be, however, that the treaty was concluded at any time gentlemen please. Did the Ministers cease to be such the moment their work was done? Will the "salaries" proposed to be allowed to them cease at that time? Were they not entitled to the common privilege of a member of Congress, or even of a witness *eundo manendo et redeundo*? I pray, sir, that we may not continue to perplex ourselves by confounding the officer with his duties. These commissioners were Ministers before they began to negotiate—they were Ministers throughout the negotiation; and Ministers they continued to be, at least while they remained at the Turkish court, whether engaged in per-

forming the special service for which they were deputed, or otherwise. The immunities conferred upon them by the public law attach not to the duty to be performed, but the office created by the commission for its performance. The Sultan would have offended just as much against the law, by suffering indignity to be offered to any of these Ministers after the treaty was concluded, as before; as much if the negotiation had never commenced, or been broken off, as if it had continued. But we know that these commissioners remained at Constantinople certainly until the 8th of June, for we have upon our files official letters of that date, written by them at that place. Then what becomes of this vindication, rested as it is upon unknown events, occurring at some doubtful period of time?

Mr. President, my strength is almost gone, and your patience must be at least as much exhausted, yet a few words more—I hope they may be the last with which I shall have occasion to trouble you. For many years have I watched the working of this Government, and have seen it steadily advancing to that condition to which our most sagacious statesmen long ago predicted it must one day come. Occasional obstructions to its onward motion have sometimes cheered me with the hope that these predictions would not be verified. Nor will I ever part with this hope, while this body remains true to itself, and faithful to the States whose sovereignties are here represented. But what I have seen and heard of late, is not well calculated to cherish hope. The time is not far distant, nay, it is at hand, when the theoretic maxim of the British law will become a practical rule for the American people. The English jurists tell us that "the King can do no wrong," and soon may we expect to hear this fiction of the British Government transferred to ours, as a solemn truth affirmed of our President. I wish we may be able to introduce with this principle the corrective it finds in the Government from whence it is borrowed. There, although the King can do no wrong, his Ministers are responsible for all the bad advice they give him.

In the instance before us, I am willing to believe that the President has not knowingly violated the constitution, or designed to impair the rights of the Senate, or desired to usurp for himself the entire and absolute control over all appointments, although such certainly is the effect of his acts. In the mode in which business of this kind is done, as we all know, many circumstances may have existed, to absolve the President from all design to exert any such power as has been here put in practice, in order to produce such effects. But what must we say of his Ministers, the bounden duty of some of whom it is, to present to him the facts as they know them to be. Of his cabinet, four were members of this body during the memorable Panama discussion. One of them (the Secretary of the Navy) was the mover of the resolution declaratory of our rights, and denying to the President the power then claimed, and here exercised. Another of them (the Secretary of State) stood by my side in that debate, the able advocate of those rights, eloquently denouncing the claim of power then preferred, as but a part of a long-settled system covertly to increase the influence and patronage of the Executive. And all four united with me in the vote given upon that occasion. Surrounded by such advisers, if no voice was raised to admonish him, if no friendly caution was given to him by any of those whose opinion upon this subject was so well known, and one of whom had in his own office a full representation of all the facts existing in the case, it ought not to be matter of much astonishment, if the President should have regarded it as one of common occurrence; and the omission to lay the appointments before the Senate at their next session may possibly have been accidental. I know not how this matter stands; but this I know, that if such a representation had ever been made to the Senate, I should never have been heard to censure mere oversights, or acts of any kind unconsciously done. When honorable Senators, however, instead of excusing, seek to justify what has been done, and this too by such arguments as we have heard, which, if sound, must suffice to perpetuate this power, the case assumes a very different aspect indeed. Under this different aspect, I have been obliged to consider it.

For thus regarding it, I know well what I am to encounter. I have seen the writing on the wall. I know the finger by which it is inscribed. It needs no Daniel to interpret it. But, sir, it is my consolation to know, that the balance in which I shall be weighed, will never be held by any executive officer of this Government, be he who he may. They who sent me here, placed me as a warder on the watch-tower, to warn of the approach of danger. I will not play the shepherd's boy, and cry out when there is none. But when the danger stands confessed before me, come it in what "questionable shape" it may, I will do my duty. That duty is now done, sir; to what end, the judgment of the Senate will decide.

Mr. KANE replied briefly to some of the remarks of Mr. TAZEWELL.

Mr. WOODBURY next rose, and observed, that in some respects his position resembled the gentleman's from New Jersey; but in certain particulars they differed. He (Mr. W.) had not spoken at all, nor voted on the resolution of 1826, so as to commit himself on the power of the President to make known public and regular diplomatic appointments without the advice and consent of the Senate. But on that subject he then formed decisive opinions, which still remained unchanged; and if that resolution had not been laid upon the table, contrary to his vote, he would have placed those opinions on our legislative records. He should not now, for a moment, hesitate to avow that those opinions, so far as regarded the construction of

the constitution on that point, went the whole length of what had been detailed by the Senator from Virginia. On that point, however much they might differ on other points, he agreed with him throughout, entirely.

Mr. W. said he never supposed that the enumeration of Ministers, judges, &c., in the constitution gave power to appoint any particular Minister or judge till a law or a specific appropriation created a particular office; and that then the President's power, as well as our own in such cases, commenced, we acting with him as to future vacancies during the session of Congress, and he acting alone, if he chooses, as to vacancies during our recess, so as to appoint until the close of the ensuing session. This was the fair and safe construction. He should not now dwell on the exceptions to this general principle, nor upon its various limitations. The hour was too late, and the question too irrelevant to the real inquiry now before the Senate. That inquiry was, in his opinion, a very narrow one. If the House would spare him a minute on the true question in issue, he would endeavor to satisfy them that the difficulty was wholly one of form rather than substance, and that the amendment of his friend from Illinois would, he hoped, remove even the objection of form.

What was the fear of the gentleman from Virginia? That by voting for the present appropriation he might seem to sanction what in 1826 he and all of us, who then thought with him, gloried in having disapproved. We all still disapprove of it. But he (Mr. TAZEWELL) distinctly admitted that a compensation ought to be made to the agents to an extent equivalent to their services, though their appointments may have been irregular from mistake, precedent, or otherwise. True, he wished it to originate in the other House, and to be included in a separate bill. Now, it was well known, the treaty was not ratified, and the business concluded, till after the appropriation bill was reported in the other House; and in such case it was usual to insert claims here. It was also proper and manly on the part of the Secretary of State, though censured for it, to recommend the compensation to the old agents under the last administration as well as to the new agents. What, then, is the whole difference, conceding, a moment, for argument, that these appointments were irregular? Is it whether you shall pay them in a separate bill, or in the general appropriation bill? And this also at a late period in our session, when a separate bill could not probably be originated and passed in the usual course of business. It resolves itself then entirely into a question of form. Every advantage to be obtained by a separate bill can be secured here. We can here, as in such a bill, limit the sum to the supposed benefit derived to the public from the services of each agent, or leave it to be apportioned by the President. If, in our opinion, the services of any have been already amply paid, or were useless to the country, we can here exclude them. But all must admit, that, so far as the country has profited by their exertions, so far they ought in some way to be paid, whether their appointments were regular or irregular. In making the compensation, whether in this or a separate bill, we could equally avoid the other difficulty of using language calculated to express an opinion on the irregularity of their appointments. He was anxious as any body to avoid inconsistency, and to relieve any gentleman from any set of words such as charges, outfits, &c., which might seem to imply an expressed opinion that these agents were regular charges, commissioners, or any other class, by whatever name, of public or accredited diplomatic officers. On this point he deemed it embarrassing and unnecessary to go into any subtle investigations. The present administration had only followed the steps of the past one in sending agents to Constantinople. If a part of the Senate deemed them legal and constitutional appointments of public regular agents, as made to fill vacancies, they could vote for the appropriation on that ground. If a portion deemed them not such appointments, but private informal agents, equally legal and equally constitutional, they would vote for the appropriation on that ground. If others deemed them to belong to neither of these classes, they might vote for it on the broad ground before mentioned, and which the Senator from Virginia concedes, that is, having reaped advantages from their services, they are willing to bestow on them a *quid pro quo*, or a *quantum meruit*. As the amendment offered by his friend on the right, left no implication of a specific opinion on these questions, it was the most preferable, and should receive his support. It avoided a useless controversy; it relinquished no power on the part of the Senate, and opened no door to danger or encroachment.

For himself, he always believed that the President could appoint secret, informal, diplomatic agents, without our advice, and pay them out of the contingent fund. By this amendment, we only increased that fund to meet this new and unusual burden of the Turkish negotiation by such agents; and one which all, probably, admitted to be a just burden on the Treasury in some shape or other. Over that fund, to its whole extent, the President alone exercises a sound discretion, both as to the individuals employed, and the amount of their salaries, whether $500 or $5,000 a year. Both Houses of Congress have deemed it wise and constitutional to place in his hands, and his hands alone, a power to appoint and expend to that extent; and if he exceeds it, no remuneration can be had without our subsequent approbation. The agents thus employed have no fixed public diplomatic powers. They are not impeachable as officers. They cannot commit either House of Congress without our subsequent assent. They can make no treaties without our subsequent consent. It is the Presi-

dent and Senate who make treaties, who give them validity, and not the draughtsmen, or signers, whether they be regular or irregular agents. No danger could accrue from this view of Executive powers. The doings of agents, appointed without our advice, in making treaties, whether in the session or during the recess of Congress, may or may not be approved by us in the ratification, and may or may not be approved by the two Houses of Congress in subsequent appropriations to carry the treaties into effect. In the case of the Florida treaty, made by Mr. Adams, without his nomination being submitted to the Senate, we not only approved the treaty, but Congress afterwards appropriated five millions to carry it into effect. The late Austrian treaty was made in the same way by the present Secretary of State; and, if either of the agents on the part of the United States had a commission under the broad seal or the narrow seal, they had it without consulting the Senate. It was not intended, any more than in this case, to give them the character of public diplomatic officers, but of mere temporary agents with special powers. Their additional pay, likewise, if they had any, was either from the secret or from the contingent funds.

He differed, however, from his friends who had spoken on the same side, as to the imperative effect of the ratification of the treaty by us, as imposing an obligation to pay the agents at all events. We ratified the treaty because we deemed it beneficial: certainly that was his opinion. But the agents, or some of them, might appear to us to have been so little useful in the negotiation, as to justify no compensation on the ground of a *quantum meruit*. When the President employed and paid them out of the contingent fund, he alone exercised a discretion on this, and went into those considerations, unless he had before made with them specific contracts as to the amount of their compensation. But, when we were called on to appropriate anew, and in a specific or general form, for this object, we had the power to affix any reasonable limits to that appropriation. Here we proposed to add to the general contingent fund only fifteen thousand dollars, leaving the President, within that sum, to exercise his own discretion, and make such discriminations as justice required.

WEDNESDAY, February 23.

The Turkish Commission.

The Senate having again resumed the consideration of the amendment proposed to the general appropriation bill by Mr. TAZEWELL,

Mr. LIVINGSTON said: A just diffidence of my power to impress upon others the force of considerations which guide me in forming my own opinion, has generally induced me to be silent, when in any debate others had expressed the reasons which were to govern my vote. My rising to address you now, Mr. President, is no departure from this rule. Dissenting in every particular from the doctrines on which a most grave accusation has been made; feeling it a duty to refute that accusation, on grounds and for reasons which have not been expressed by others, I must reluctantly ask the attention of the Senate while I endeavor to perform this duty.

Sir, the Senator from Virginia has, in the most unqualified terms, characterized this whole transaction, from its very outset to its conclusion, as a lawless, unconstitutional usurpation of power on the part of the President; and the acquiescence in it which he says will be involved in our adoption of the amendment, a participation in the acts thus denounced, aggravated by a base surrender of rights, which are vested in us by the constitution. I repeat, sir, literally, the charge. He has added, that it is gross, palpable, to be justified by no construction of the letter of the constitution, nor excused by its spirit; that with respect to the President, the act is done, the sacrifice is consummated; but that, on our parts, we may yet avoid the sacrilegious guilt of violating the constitution, by voting with him for striking out the appropriation. We have yet this resource. But, in a tone at once admonitory and menacing, we are told that there is no other escape; we stand on the brink, another step, and we are lost, engulfed, with the President and his advisers, in the same abyss of political profligacy and ruin.

Sir, I wish for no escape. If I desired one, I could find it behind the reasoning of the Senator himself. He moves to strike out the appropriation, because it provides for an outfit, and because it calls those who made the treaty commissioners. Yet he is willing to pay the whole sum—ay! and a much greater, as much as any member may deem a sufficient remuneration; he will be not only just but generous. Why will he do this? Why, as a guardian of the public treasure as well as of the constitution—why will he open it to these persons? Undoubtedly because he thinks they have rendered a service; but in what manner? in what capacity? Clearly, in no other than that of making a treaty, and as commissioners. Then, I ask, sir, is he not willing to sacrifice the substance for the form? Would not a provision for this payment, in any manner that you could give it, sanction the service by which it was earned? But the "rose" which, in another part of the gentleman's argument, he said would "smell as sweet by any other name," here loses its fragrance. Change its denomination, call it compensation for services, and its perfume is delicious; alter the name to outfit and salary, its odor is insupportable, and taints the very air; every constitutional nerve of the Senator is shocked by it. Now, sir, if I wish to escape the question, if I thought the denunciation well supported, I might, as I said, adopt this reasoning, and, by voting for the amendment offered by the Senator from Illinois, (Mr.

KANE,) which avoids the objectionable terms, leave it in doubt whether I did not assent to the doctrine of the Senator from Virginia. But, sir, I am not disposed to avail myself of such a subterfuge. Whenever I have formed an opinion, and am properly called on by my duty to express it, I will do it fearlessly, independently, as becomes a member of this august body, frankly to my fellow-Senators, explicitly to the nation; but, at the same time, with a proper deference and respect for the opinions of those with whom I have the misfortune to differ. In this spirit, sir, I will proceed to discuss the serious questions that have been raised by the Senator from Virginia, and to repel, as best I may, the charge of violating the constitution, and surrendering the rights of the body to which I have the honor to belong.

I do not, myself, deal in professions of attachment to the constitution—when made by others, I believe them, unless their conduct or character, has given me reason to doubt their sincerity. In the case of the Senator from Virginia, no one who knows him can have such a doubt; but whilst the fullest confidence is felt that he is persuaded of the truth of all he utters, and while he is convinced, that the construction he puts on the constitution is the true one; while he believes that those who think differently are in the wrong, might not a slight suspicion that he himself is deceived; that his judgment, strong as it naturally is, and invigorated as it has been by study and reflection, that even such a judgment might sometimes err? and would not this reflection, had it occurred, have led him to think that this might be one of those rare occasions, and have induced him to qualify by some expression of a possibility that his reasoning might be ill-founded, the sweeping charges of usurpation, and lawless and unconstitutional acts by the President, of dereliction of duty in those who support them? and would not that reflection also have inclined him to avoid asserting that these violations were gross, open, palpable, such as the plainest understanding must perceive—thus leaving to those who cannot read the constitution as he does, not even the excuse of error and ignorance to cover their aberrations? Sir, this charge goes out to the nation, to the world, under the authority of the Senator's name—it has already gone forth; party spirit has already seized it; detraction has repeated it; simple credulity may believe it; and the nation is given to understand that its first magistrate has deliberately committed an open violation of the constitution and his duty, or, as was insinuated, has been ignorantly made the instrument of others in its performance; and that this body, the Senate of the United States, is ready, unless they listen to the warning voice of the Senator from Virginia, to aid in the parricidal act. Now, sir, how if this charge should be unsupported? How if it should be void of the slighest foundation? How if the letter of the constitution, as well as its spirit, should sanction the reprobated act? How if it should be proved to have been the uniform course of the Government from its institution, pursued by the practice of Washington, Jefferson, Adams, Monroe, by every President of every party; sanctioned by every Senate, unimpeached by any House of Representatives—called in question by no vigilant guardian of the constitution until the present day? How then? What then will this nation, the intelligent nation to whom this charge is made, what will they think—what will be their verdict? To them, sir, I appeal; to their sentence I am willing to submit. Sir, I do not arrogate to myself to be one of the chosen few to whose charge the defence of the constitution is committed; or that my construction of that instrument is the only orthodox faith. All those who surround me, have an equal duty to perform in this respect; all of them are, no doubt, equally willing, and most of them more able, to perform it than myself; but, while I yield to their equal right and superior ability, I must resist the claim any one may set up, either directly or by implication, to the title of exclusive defender of the constitution. I have said that I do not deal in professions; but when the measures my sense of duty obliges me to support, are stigmatized by the terms we have just heard, I must be permitted to say that I yield to no man in attachment to the charter of our fundamental laws, to the Union of which it is the bond, and to those rights of its separate members, which are not surrendered by it to the National Government. I am old enough to have watched the progress of its formation, to have witnessed the first moments of its existence, and was one of those who hailed its first appearance as the harbinger of that prosperity which it has so gloriously realized. I saw it, sir, in its cradle, marked its progress with no inattentive eye; and the first period of my political life was employed in resisting inroads which false constructions, in high party times, made on its provisions. I belonged, and faithfully adhered, to the party which opposed (for a period unsuccessfully) acts which we thought infractions of that instrument. My profession of faith has not heretofore, and is not now, altered—it never will be. But that faith does not oblige me to array myself with any one, whatever may be my opinion of his patriotism and zeal, in opposition to the exercise of a power that I think is fairly conferred by the constitution to one branch of the Government, or contend for it in favor of another not entitled to it, though I should myself be a member of that latter branch.

What are the facts which have created this sudden explosion? The rapid growth of the Russian establishments on the Black Sea, and the consequent increase of commerce in that quarter, had for some years past made an arrangement desirable with the Sultan, who held the keys of the narrow inlet, through which alone an entrance into this sea could be had

The immediate predecessor of the present Chief Magistrate had appointed successively the two commanders of our squadron in the Mediterranean, together with Mr. Offley, our consul at Smyrna, commissioners to effect this object. They were furnished with full powers, commissioned under the great seal, and instructed to make a treaty to secure this object. This was designed to be a secret mission; it was never communicated to the Senate, nor was the appointment of the commissioners submitted to them for confirmation: however, from some cause, not perfectly understood, but, as many believe, from too great publicity given to the mission, it totally failed; and this failure became known soon after Mr. Adams went out of office. The object increasing every day in importance, it very early attracted the attention of the present administration; and to avoid the interference of other nations, and better to secure the secrecy of the operation, Mr. Rhind was appointed consul to Odessa, but was furnished with full powers, directed jointly and severally to him, Commodore Biddle, and Mr. Offley; he was directed, under the cover of his consular appointment, to proceed to Constantinople, and there negotiate for the free entrance into the Black Sea; he went there, his object was not suspected, and on the 7th May last he concluded a treaty, which was signed by Messrs. Offley and Biddle, they having arrived in the interval, on the day before the adjournment of the Senate at its last session. This last commission, like the preceding appointments, by Mr. Adams, was made in the recess of the Senate; and, as had been the case in these instances, the names of the commissioners were not submitted to the Senate for confirmation. These are the facts, and on them is founded the accusation we have heard.

Let us remember that this is not a question which concerns the infringement of any State right, that it is not one of reserved or conceded powers, but merely regards the mode of exercising one confessedly given to the General Government—that of treating in the name of all the States with a foreign nation.

I will examine, in order, the positions on which these serious charges are founded. The first of them (although I do not think it applicable to the present case) is, that the President has no power to appoint a public Minister during the recess of the Senate, to any power where no such Minister had previously existed; or even if such mission had previously existed, unless the vacancy occurred after the adjournment of the Senate. To this position I accede in none of its parts. But if I should err on this subject, I hope to show that the establishment of this construction will not justify the charge that is founded upon it.

I construe the constitution as I would any other written instrument, by its words, where they are explicit—where there is doubt, by the context—by the plain object of its framers, by a view of the evils it was intended to remedy, the circumstances under which it was made, and the contemporaneous construction and uniform practice under it. To adhere to its letter, without these aids, would sometimes defeat the powers evidently intended to be vested by it—sometimes give it greater than were contemplated. For instance, the President is directed to "take care that the laws be faithfully executed." Take this literally, without any aid from the rules of construction I have laid down, and you give him all power but that of legislation. In the article next preceding, it is said that "no State shall enter into any compact or agreement with another State, without the consent of Congress." A literal construction of which would prevent a settlement of disputed boundaries: or any other arrangement which mutual accommodation, for the acknowledgment of deeds, the arrest of fugitives, or similar objects, might require. Let us examine the position by these rules.

The constitution directs that "the President shall nominate, and, by and with the advice and consent of the Senate, appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointment is not herein otherwise provided for, and which shall be established by law." It then gives power to Congress to vest the appointment of such inferior officers as they think proper, in the President alone. Here the appointing power is complete. But as this power was to be exercised by the President, subject to the approbation of the Senate, and as the sessions of that body were not permanent, it was foreseen that great inconvenience would result if all vacancies were to remain open during the recess. What was the natural remedy? To give the temporary appointment to the President, subject in the usual manner to the confirmation of the Senate, when it should meet. And to afford them time for deliberation, the duration of the temporary appointment was extended to the end of their session. The evil to be remedied by this proviso was the vacancy of an office occurring at a time when it was impossible for the President to submit a nomination to the Senate. Such would be the case of an officer dying during the recess, or resigning on the day of our adjournment; or of a Minister dying in a distant country at a time during the session when it would be impossible to know the event before the adjournment. If, in these two last cases, the office were to remain vacant until the meeting of Congress, the remedy in the proviso would not be commensurate to the evil it was intended to avoid. There would be vacancies when it was the evident intention of the instrument there should be none. I must not be understood as saying that an inconvenience attending any construction is sufficient to show it to be false, or that to be the true reading which avoids it. Where the words are express—where the intention is evident, however inconvenient, they must be

obeyed. But, where the words will admit of an interpretation which avoids such an evil as must have been foreseen, and cannot be supposed to be left unprovided for, there the rules of construction to which I advert will apply. Before we consider the words of the constitution, let us see the consequences that would result from an adherence to what is perhaps their literal meaning. The collector of the port of New York dies on the day before the adjournment. The vacancy cannot be filled until the December following. The collection of one-third of the revenue of the United States must be left in irresponsible hands. The commander of a military district in time of war dies—his loss cannot be supplied—the most important operations on which the safety of the country depends must be stopped. In the distant operations of your navy, the same or a greater risk and inconvenience occurs. At the moment of concluding a commercial arrangement, by which immense advantages are to be secured, or a treaty of peace, which is to save the country perhaps from devastation, your plenipotentiary dies during the session of Congress, but before the President is apprised of it. He cannot supply his place: the commercial advantages are lost—the war must rage—the country must be devastated: because, according to the literal construction of the clause, the vacancy happened during the session, not in the recess. The President who should presume to remedy these evils, would be guilty of a "lawless usurpation of unconstitutional power." And the zealous guardians of our rights on this floor would denounce all those who might presume to think differently, as men ready to lay the rights of the body to which they belong at the feet of Executive power. These, sir, and a hundred other inconveniences which might be stated, and not only possible, but probable, but certain and inevitable, and must occur during the long series of ages in which it is our unanimous prayer that our constitution may live. Are they not great? Must they not have been foreseen? Could they have escaped the wisdom and deep foresight of the sages who framed the constitution? Have they not provided for them? My belief is that they have, by the section in question. The President by it is authorized to "fill up all vacancies that may happen during the recess of the Senate." Now take this literally, and he may fill up vacancies in the Senate itself—and it appears, from the Federalist, that this was once seriously contended for. But this cannot be the true construction, though no one can deny that it is the literal one. Why? Because it was evidently the intention of this section to limit it to the case of officers. There are, then, reasons which justify a departure from the literal meaning of the section in this instance. Are there none in the case before us? I think they have been already sufficiently pointed out. Another, perhaps, of some, though I do not think of conclusive weight is, that the omission of a comma, which was probably inserted in the draught after the word happen, may have given rise to all the ambiguity in the phrase. In that case, the period described, that is, the recess of the Senate, would relate to the antecedent power of filling the vacancy, not to the occurrence of the event by which it was created. My exposition of this clause, therefore, is, that it permits the President to fill all vacancies in any of the enumerated offices, whether they occur during the recess, or even during the session of the Senate, if the vacancy was not known to him, or could not be supplied during the session; but that he would be guilty of a breach of duty if he appointed them during the session, and did not send in the nomination to the Senate.

It was said on this subject, that no President had ever dared to fill up an original vacancy in an office after the end of the session in which the law which created the office had passed. Whether it was the want of courage, or of inclination, that prevented the performance of an improper act, I cannot say. But as it is admitted that the act was not done, perhaps it might be quite proper to attribute it to the latter cause. But the fact, if it be one, strongly exemplifies my construction. Any office, first created by law, must be vacant at the moment the law is approved by the President. That must necessarily be during the session of the Senate. He is, therefore, bound to fill it; because the vacancy not only happens during the session, but it also comes to his knowledge at that period. But suppose a law to be passed, requiring the appointment of certain officers, which is not to take effect until a distant period, or that is dependent on an uncertain event, and at that time the Senate should not be in session, can it be doubted that the President would be authorized to make a temporary appointment to fill such original vacancy? If he could, by what authority? Not the law surely; for that cannot alter a constitutional right of the Senate, unless the office be an inferior one, and the right to fill it without the concurrence of the Senate be expressly given by the law: it must be then by the liberal construction of the section, which I contend is the true construction. On which subject, sir, permit me to state a manifest difference in the rules for interpreting the constitution. When the question is, whether a certain power is granted by it to the General Government, or reserved to the States—in that case, whenever there is reasonable doubt, the power ought not to be exercised. But where the States have confessedly parted with, and do not claim the power—where it is plainly their object and their interest that it should be exercised by the Federal Government, and the only question is, by what branch, and in what manner—then the true rule of interpretation is that which will give effect to the power, rather than that which would destroy it. In the case of interfering claims between the States individually and their federal

head, the mind must be convinced that the power in question was intended to be granted, before it can come to the conclusion that it belongs to the General Government. Where there is doubt, there can be no such conclusion. Therefore, the power must rest as it was—that is, with the State Government. But in the question, how a power confessedly granted is to be exercised—then such absolute certainty is not required. The first duty of the expositor is to adopt some conclusion that will give effect to the declared and confessed grant of power. And although there may be doubts as to the agency by which the intent is to be executed, yet they must be weighed, and the decision made according to the preponderance of the reasons in favor of either of the departments claiming it. Thus, in the present instance, it is the undenied and express intent of the constitution that offices should be filled by the President, with the advice and consent of the Senate when they were in session, and by a temporary appointment in the recess. The evident intent, then, is that there shall be no vacancy. The words, however, give rise to two constructions. By the one, this evident intent will be carried into effect. By adopting it, there will be no vacancy for a longer period than elapses before it comes to the knowledge of the President. By the other, in many most important cases this intent will be defeated; the office must remain vacant for the inconvenient, and sometimes exceedingly injurious period of eight or nine months. Which of these constructions are we to adopt? I should incline to think the former would not only be the best but the safest: for not a single inconvenience, that I have been able to discover, or that has been suggested, will attend the appointment to fill a vacancy which occurs during the session, but which is unknown to the President until the recess—not a single inconvenience that will not occur if the vacancy happens in the recess: while the necessity for filling it is equally evident in both cases. Gentlemen, for whose judgment I have the highest respect, I know, differ from me on this point; and it is probable they may be right. I express my opinion merely because the occasion calls for it, and my constituents and the public have a right, in the station I occupy, to understand it. But although it lies at the bottom of the argument which has been used by the Senator from Virginia, I do not think, as I hope to show, that it is the point on which the present question is to be decided.

The reasoning I have hitherto used, is applicable to the appointment of al officers, as well Ministers to foreign powers as others; but there are reasons peculiar to the former, which place the authority to commission them during the recess on a different ground. The office of Minister to a foreign power derives its authority from the law of nations. The intercourse which the political relation of different States towards each other in modern times requires, their mutual wants, and the comity which exists between them, render the frequent, and generally the permanent, intervention of agents from one to the other necessary. Every civilized nation must necessarily have the power of appointing and receiving such agents vested in some one or more of its departments. In the Constitution of the United States this power is divided: the President alone has the right to receive foreign Ministers, and by the power to make treaties, subject to the assent of the Senate, that of making these treaties himself, or, as a necessary consequence, that of appointing the persons by whom they are to be made. No law, therefore, was necessary to give effect to the exercise of this function. The moment the first President entered into office, he had the right to perform it, either by himself, or by others.

The laws of nations, however, to which I have referred, make a distinction, as I hope abundantly to prove, between two classes of agents by whom the diplomatic intercourse may be carried on; it distinguishes between public Ministers and private agents. In the first are included ambassadors, envoys, ordinary and extraordinary, Ministers resident, chargés d'affaires, consuls, &c. In the second class there can be no gradation of rank, but the powers may be as extensive as those given to any of the others. The power to make treaties, then, includes that of appointing agents, as well of the one as of the other class. But the constitution has placed a limitation on the power of appointing those of the first class; and having given none to that of the second, the President has it without restriction. In this branch of the argument, however, our inquiry relates to the public Ministers only; and the question is, whether the President has a right to appoint such Ministers during the recess of the Senate, either to a power to whom we before had sent no such Minister, or to fill a vacancy in the mission to a country where we before had a Minister, if that vacancy should have occurred during the session of the Senate. This is here the sole question, for I admit, that, in all cases of appointment to public foreign missions, made in the recess, the President is bound to submit the nomination to the Senate at its next meeting. This is my reasoning on that subject. Having the power to make treaties, afterwards to be submitted to the Senate, the President has the right to select the nation with whom such treaties are to be made, and the time most favorable for making them. That time may occur during the recess of the Senate, and he therefore has the power to fill the original vacancy by the appointment of a public Minister; but, in that case, if the negotiation is carried on by such Minister, he must send in the nomination to the Senate at some time during their session, if he wishes the appointment to continue beyond that period. If, on the contrary, he finds no occasion for extending the powers of the Minister beyond the

time at which his commission would expire by the constitutional limitation; if he knows, for example, that the treaty will be made at that time, or the negotiation will be broken off, he may, at his discretion, omit sending in the name for confirmation. He must do this, as he does all other discretionary acts, under his responsibility to the nation; but, in my opinion, he clearly has the power.

The error, as it appears to me, lies in considering the mission to each court as a separate and distinct office: whereas the office of ambassador or Minister plenipotentiary is a general one, subject to the President's direction where he is to be sent. He is a Minister to reside at such a place; an ambassador to go to such a sovereign. Suppose the constitution had, in express terms, said, the President shall have the power to appoint messengers to carry despatches to different courts—would the messenger to London, the one to Paris, or St. Petersburg, be several and distinct officers, or would the office be the substance, and the destination an accident, liable to be varied, without altering the character of the appointment? Again: if the President had been authorized to appoint justices of the peace for the District of Columbia, surely he might apportion them to the different cities; and their particular destination would not make the justice for one town an officer different in kind from the justice of another. The constitution puts the offices of public Ministers precisely on the same footing: it does not limit the number, nor has any law made such limitation: as it now stands, and ever has stood, and must remain, until the Legislature shall declare how many officers of this description there shall be, it is necessarily a matter of sound discretion with the President to what courts the exigencies of the country require that a public resident Minister should be sent. In case of a new mission, as his nomination may be rejected, either because the Senate think the mission inexpedient, or because they disapprove of the man, he will generally avoid making such appointments, without consulting the Senate by submitting the nomination, unless the exigency of the case requires it. And as to the existence of such necessity, he must stand upon his responsibility to the people; to be enforced, in case of an unwise exercise of the power, by their voice of disapprobation—a sufficient sanction to a man of character; and, in case of a corrupt exercise, by impeachment. And it must further be observed, that the two Houses have each a check on any extravagance of this kind, by the appropriation.

But that no limitation as to the particular destination of the Ministers was intended to be made by law, is proved by the first appropriation bill passed in 1790, where $40,000 is appropriated, not for the support of particular missions, but "for the support of such persons as he (the President) shall commission to serve the United States in foreign parts," and for their incidental expenses; and its only limitation is that of their compensation for the different grades, which has remained unchanged to the present day.

The prominent and striking case of Ministers appointed to make peace during the recess of the Senate, stood so directly in the way of the position which denies the power to create a new mission in the recess, that the absolute necessity of removing or getting round it was apparent. But it could not be removed. There it stands—its existence evident—its constitutionality not doubted—its absolute necessity unquestioned. What was to be done? The ingenuity of the Senator from Virginia (Mr. TAZEWELL) has provided a remedy. The whole is referred to the war-making powers. The President is commander-in-chief of the army. He may find it necessary to make an armistice. He may effect this by such agents as he thinks proper. The plenipotentiaries to treat of peace are not Ministers; they are agents to negotiate an armistice. As well, says he, may you call the officer sent to negotiate an exchange of prisoners, or settle the terms of capitulation for a fortress; as well might you call him a Minister, as the persons sent to settle the armistice.

It is somewhat unfortunate for this argument that negotiators for peace are invariably plenipotentiaries; that their authority is authenticated by the same broad seal that is supposed to have added so much dignity to the diplomatic character of Messrs. Offley, Biddle, and Rhind; that they are civil, not military officers; that they exchange their full powers with those with whom they treat; that the agreements they make are not armistices—intervals between acts of hostility—but treaties of peace, which put an end to them; and that ninety-nine times in a hundred, the putting an end to hostilities is only one out of many of the stipulations contained in a treaty of peace. The power of making it, therefore, is not a branch of the war power, but of that which is its very antagonist, the power to make treaties. A stipulation that the nations between whom it is contracted shall remain at peace with each other, even should it contain no other agreement, would be as much a treaty as any other that ever was made. It is called by that name; it is negotiated by the same means; requires the same ceremonies in its inception, and the same ratification for its validity as other treaties are. Why, then, call it an armistice, which is never ratified by the treaty-making power of the nation? Why liken it to the capitulation of a fortress, or an exchange of prisoners? Because the argument showed that here, at least, was a case in which the constitution could not bear the strict verbal construction that was contended for; and the precedent proved that it had been departed from in practice, and that the departure had never been questioned, much less stigmatized, by the epithets so liberally bestowed on the Turkish mission. All this made it necessary either to

abandon the argument, or give another character to the power of appointing Ministers in the recess to stop the ravages of war, when perhaps its continuance might endanger the existence of the nation. A treaty of peace is, for this reason, called an armistice, and the Minister plenipotentiary who concludes it, is, by the argument, placed on the same footing with the subaltern who is led blindfolded into the postern of a besieged fort, to summon it to surrender.

But the Senator shall have it which way he pleases. The power to put an end to a destructive war, by the appointment of Ministers in the recess of the Senate, is acknowledged. Is it the rightful exercise of a power under the constitution? Then it can only be by giving to the clause the construction which I have put upon it. Is it a power over the constitution? Then the same end which I contend for, by a legitimate construction, is to be allowed by the dangerous plea of necessity—the tyrant's plea—which may not exist when used even to justify a peace. It may be humane, and convenient, and proper, to put an end to the devastations of war; but until the existence of the nation is at stake, until peace alone can save it from destruction, there is, properly speaking, no necessity. What shall be the case of necessity, then, must be determined by the party who is to avail himself of the plea; and, if admitted, will be found to embrace all cases that are found convenient. And if the plea of necessity be admitted to justify a treaty of peace, made by Ministers appointed in the recess, why may it not cover a like appointment for making a treaty of commerce, or boundary, or cession, which could only be made at that time?

But is it possible the sages and practical statesmen who framed our form of Government should not have foreseen such ordinary and indeed inevitable occurrences; or that, foreseeing, they should not have provided for them? Is it possible that they could have left the power of making peace—seizing an advantageous occurrence to make an important treaty—or filling an important office, during the recess of the Senate, to be justified by necessity? The idea is an imputation on their wisdom or their patriotism, which they do not deserve. They did foresee—they did provide. And when they gave to the President the power to make treaties, subject to the assent of two-thirds of the Senate, they gave him the power to appoint the Ministers by whose agency they were to be made; otherwise, we should exhibit the strange spectacle of a wise nation, which had so cunningly contrived its Government, as to deprive it, in conjunctures that most frequently happen, of the means of making peace, availing itself of favorable circumstances to secure commercial advantages, or filling some of the most important offices.

But the power may be abused! The President may appoint a host of Ministers, and drain your Treasury by the payment of their salaries. These Ministers may make bad treaties! He may compromit our neutrality by acknowledging one of those new powers which are daily springing into existence!

Alas! yes, sir, it is most true; unfortunately there is no power you can give, that is not liable to abuse. It cannot be denied; and the observation makes up for its want of novelty by its acknowledged truth. In every Government, check and balance it as you will, somewhere there must be confidence; and, until we can find men of unerring wisdom and incorruptible integrity, blind to the allurements of popularity—deaf to the voice of interest, favor, or affection—that is to say, until we can find men who are not men, that confidence will at times be abused. But it must be given. And it so happens that there is no power confessedly given to the President, that is not liable to greater and more fatal abuse than this. You fear war from his sending a Minister to one of those new powers which are yet unacknowledged by the rest of the world; and yet you cannot deny that he has the right to receive a Minister from one of those powers, without consulting the Senate or House of Representatives. You will not trust him with sending a Minister, lest he should involve you in a war; and yet you confess that he has the uncontrolled command of your army and your navy—instruments, if he wishes war, infinitely better fitted to produce it.

You apprehend that he may lavish your treasures in the salaries of a few Ministers, at the same moment that you give him the control of all the officers employed in the collection of your revenue. You dread that he may reward his favorites by appointments to embassies in the recess; and yet no man can obtain an office of any description, from the highest to the lowest of those which are submitted to the Senate, but by his previous nomination. You are obliged to swallow the camel—why strain at the gnat?

We now approach nearer to the very case which has excited this holy indignation against Executive encroachment and usurpation: excited it—if I may be permitted to use a phrase which did not seem to find favor with the Senator from Virginia, when it was uttered by another, (Mr. KANE,)—excited it too late—too late, indeed, says he, to save this mortal stab at the constitution; but not too late to preserve the Senate from participating in the parricidal act. Here I must take leave to differ. The stroke, if it be one, was given in the earliest day of our national existence. It has been repeated by every President who has sat in the Executive chair; every Senate, and every House of Representatives, have been accessories to the crime; and we ourselves have not yet washed our hands from the blood of the victim. I must be permitted, therefore, to repeat, that, in my poor opinion, it is now too late even to prevent the participation of the Senator himself; not too late, however, for him to show

his zeal, energy, and eloquence in defence of the constitution, all which I greatly admire and respect, although I cannot participate in the feelings that have excited them.

In another point of view, I cannot but regret that the discussion had not taken place at an earlier time, and under other circumstances. The full development of the subject would require a reference to matters which all may speak of but ourselves; and although I cannot but feel much embarrassment in the endeavor to avoid disclosing the "secrets of our prison-house," I shall, in the little I have further to say on the subject, carefully avoid any improper disclosure, by confining my remarks in the defence to those circumstances which have been animadverted on in making the charge.

The immediate causes of complaint, then, are, first, that Messrs. Offley, Rhind, and Biddle were appointed by the President, in the recess of the Senate, to negotiate a treaty with the Porte—that being a new mission; and, secondly, that if it had been even the filling of a vacancy, the President ought to have submitted the nomination to the Senate at its then next meeting.

The first error here is one of fact. This was not a new mission. Commodore Crane and Mr. Offley were sent by Mr. Adams, for the same purpose, to the same court. They had effected nothing, and a new commission was instituted, consisting of Mr. Rhind, Commodore Biddle, and Mr. Offley. Here was then a vacancy, if that should be required—a vacancy created by revoking the powers of one set of agents, and giving them to others; and if a vacancy, then, according to the most scrupulous, a right in the President to fill it. The next error is one partly of fact—partly of construction. It consists in giving to those commissioners the appellation of public Ministers, and thus bringing them within the proviso of the constitution, which directs that such officers shall be appointed with the advice and consent of the Senate.

The distinction that was made by the Senator from Illinois, and supported by a reference to high authority on the law of nations, did not make upon the gentleman from Virginia the impression it seemed to do upon the rest of the Senate. It is a well-founded distinction, that which he thus urged, between a public Minister and a secret agent. It seems to be thought that the nature and style of the mission is to be determined by the manner in which the powers are authenticated—not by the character given in those powers. Sir, there are grades in diplomacy which give different rank and privileges—from an ambassador to a secret agent. The lowest of these may have, for the purpose of binding the party he represents, the same powers that are usually vested in the highest. A chargé d'affaires may be ordered to make a treaty, or to compliment a sovereign on his accession; but he is neither more nor less than a chargé d'affaires—so the same acts may be done by a secret agent, having no public diplomatic character.

Ambassadors and other public Ministers are directed to be appointed by the President, by and with the advice and consent of the Senate; because public missions required no secrecy, although their instructions might. But the framers of the constitution knew the necessity of missions, of which not only the object but the existence should be kept secret. They therefore wisely made the co-operation of the Senate ultimately necessary in the first instance, but left the appointment solely to the President in the last.

In the very instance before us, if the preceding efforts to form a treaty should have failed from too great a publicity being given to a mission intended to be kept secret; if it should have been defeated by the interference of other powers; and if whatever success the present attempt has had, might be attributed to the secrecy with which the principal agent left the United States, and the ignorance of his object which prevailed among the ministers of other powers at Constantinople; if it should turn out that these things were so, would they not form strong proofs of the utility of the distinction between those different kinds of agencies; the public, by means of public acknowledged Ministers; the private, by agents specially authorized to perform a certain act, unknown to all but those with whom they treat.

But fault is found with the manner in which these agents were constituted. Their powers, it is said, were under the broad seal of the United States, certified by the signature of the President. This broad seal, or great seal, as it is alternately called, makes a great figure in the argument. Let the President, says the Senator, send his agents, his messengers, his spies, where he pleases—let them be kicked and cuffed by the authorities to which they go, he cares not. But the broad seal, the great seal, should never be profaned to such vile uses. Now, sir, I am not quite so indifferent about the usage our agents may receive, whether they are commissioned under the great or the little seal, or by no seal at all. But I should be glad to know in what manner a President is to signify to a foreign State his confidence in the agent he employs, or the powers with which he chooses to invest him, in any other manner than by his signature to those powers, and the addition of the seal of the United States, which authenticates it. To deny the use of these proofs of the commission given to such agents, is to say that they shall not be employed, because they can transact no business with a foreign power without the usual proofs of their mission. But the right to employ them is abundantly proved by the laws of nations, and, as I shall show, by the constitution, and a uniform practice under it; therefore, the use of the seal makes no difference in the nature of the mission. They are private agents for the transaction of the business of the nation: public is, in

one sense, the reverse of secret; but, in another, it means what appertains to the nation; and, in this acceptation, there is no confounding of terms, by saying that a secret agent may be appointed to transact public business. The commissioners to the Porte were such secret agents; their commission, though it gave them plenipotentiary powers for a national purpose, was a secret agency, and the President was under no necessity to nominate them to the Senate; it would have been an act of imprudence if he had done so, and the treaty would, most probably, have failed.

Sir, I should be the last man who would impute to any honorable member of this body the indiscretion of divulging any thing confidentially committed to us. But I put it to the Senator who told us how safely all negotiations might be intrusted to its management, whether he ever knew any important subject of our confidential debates that was not first whispered about in the taverns of the city, and soon afterwards alluded to in the public papers. The very subject before us is an instance of what I say; the injunction of secrecy is not removed, and yet provisions, which it is supposed that treaty contains, are as common a topic of discussion as if it had been published; nay, in the warmth of debate, here, with open doors—but, sir, I will pursue that subject no further, lest I might, in my own conduct, afford a proof of what I assert. Suffer me to repeat, that if ever there was a justification for the employment of a secret agency, the circumstances of this case afford it. If ever there was a case in which the difficulty of confining to these walls what passes within them when our doors are shut, this is that case.

Grant that these were secret agents, and not public Ministers: it is said, with a triumphant tone, show the power of the President to appoint them. Sir, I will do this, so that every unbelieving political apostle who doubts, may not only hear and see, but shall lay his finger on the clause. It is found in the express, unequivocal authority given to the President to make treaties. If, under this power, he himself should make a treaty with a foreign Minister, and submit it to the Senate, could it be objected to as being unconstitutionally negotiated? Surely not by those who contend for literal constructions. But no one has denied that he may do it also by others; must such others be ambassadors or public Ministers? Where is the clause that restricts him to such agents? We have seen that, by the law of nations, other grades are known and employed under the title of secret agents. What title in the constitution, what forced construction of any word it contains, can be made to show that he may not make choice of them when he deems it expedient? There is none. The power to make treaties is given, and with it the power to employ all proper means to effect it; secret agents are at times proper means, and therefore he may employ them; therefore, he must employ them whenever he thinks publicity would endanger the failure of his object. Now, sir, let us see whether a practical construction, in every thing conformable to the principles I have laid down, has not been pursued, and from what period. A uniform practice in conformity with any particular construction is always strong evidence that its first construction is correct; as applied to our constitution, it is particularly persuasive, if it arose under the management of those who framed the instrument, and best knew its intent; and it becomes almost conclusive, if the practice has been uninterrupted and unquestioned. All these characteristics, unless I greatly deceive myself, will be found in the succession of acts to which I now invite the attention of the Senate.

The practice of appointing secret agents is coeval with our existence as a nation, and goes beyond our acknowledgment as such by other powers. All those great men who have figured in the history of our diplomacy, began their career, and performed some of their most important services in the capacity of secret agents, with full powers. Franklin, Adams, Lee, were only commissioners; and in negotiating a treaty with the Emperor of Morocco, the selection of the secret agent was left to the Ministers appointed to make the treaty: and, accordingly, in the year 1785, Mr. Adams and Mr. Jefferson appointed Thomas Barclay, who went to Morocco and made a treaty, which was ratified by the Ministers at Paris.

These instances show that, even prior to the establishment of the Federal Government, secret plenipotentiaries were known, as well in the practice of our own country as in the general law of nations: and that these secret agents were not on a level with messengers, letter-carriers, or spies, to whom it has been found necessary in argument to assimilate them. On the 30th March, 1795, in the recess of the Senate, by letters patent under the great broad seal of the United States, and the signature of their President, (that President being George Washington,) countersigned by the Secretary of State, David Humphreys was appointed commissioner plenipotentiary for negotiating a treaty of peace with Algiers. By instructions from the President, he was afterwards authorized to employ Joseph Donaldson as agent in that business. In May, of the same year, he did appoint Donaldson, who went to Algiers, and in September of the same year concluded a treaty with the Dey and Divan, which was confirmed by Humphreys, at Lisbon, on the 28th November in the same year, and afterwards ratified by the Senate on the — day of ———, 1796, and an act passed both Houses on 6th May, 1796, appropriating a large sum, twenty-five thousand dollars annually, for carrying it into effect.

I call the attention of the Senate to all the facts of this case, with the previous remark, that the construction which it gives to the constitution was made in the earliest years of the Federal Government, by the man who presided

in the convention which made that constitution, acting with the advice and assistance of the leading members of that body, all fresh from its discussion; men who had taken prominent parts in every question that arose. That in the Senate which ratified it, and in the House of Representatives which carried it into execution, were several members, not only of the convention when it was formed, but of the State assemblies where it was discussed, analyzed, every hidden defect brought to light; every possible inconvenience predicted; every construction given that ingenuity, sharpened by opposition and party feeling, could conceive; where amendments were proposed, to remedy apprehended evil; where it was examined, article by article, phrase by phrase, not a word, not a syllable, escaping their inquisitorial scrutiny. Yet, by those men, with this perfect and recent knowledge of the constitution, acting under the solemn obligation to preserve it inviolate, and without any possible motive to make them forget their duty, was this first precedent set; without a single doubt on the mind that it was correct; without protest, without even remark. A precedent going the full length of that which is now unhesitatingly called a lawless, unconstitutional usurpation; bearing the present act out in all its parts, and in some points going much beyond it. Like the present case, it was an appointment in the recess of a commissioner, with full powers to make a treaty; those powers were authenticated as these were, by the signature of the President and the great seal of the nation. But it differs in this, that the commission to Col. Humphreys was an original appointment, and, therefore, according to the new doctrine, more objectionable, no minister having before been appointed to treat with Algiers. Whereas, in this case, a previous commission had been given by Mr. Adams, which was vacated by the recall of the first powers, and the appointment of Rhind, Offley, and Biddle. It went infinitely further than this, in giving to the Minister the authority to appoint a substitute, and in the fact that the substitute negotiated and made the treaty—the Minister remaining in Lisbon, and Donaldson going alone to Algiers, where the treaty was concluded. Mark, too, that the commission to Humphreys is dated only three weeks after the adjournment of the Senate in March; that Donaldson was employed in May; and that neither Humphreys nor Donaldson were ever nominated to the Senate, although they of course met in the December following. Look, sir, into the executive journal before you. No nomination of Humphreys, under this commission—not a syllable said of Donaldson. Yet, when the treaty came, it was ratified; yet both Houses passed a law for carrying, *eo nomine*, this very treaty into effect; no squeamishness about the phrase under which the appropriation should be made; nothing hidden; the whole transaction—the mode of its execution—the agents by whom it was effected, broad seal and all—the appellation of the agent, commissioner plenipotentiary, which is now so offensive, all spread before the Senate, composed of men, four-fifths of whom I may, I think, say, had either aided in making the constitution, or deliberated on the propriety of its adoption, and this treaty sent to them by George Washington. Yet, with all these badges of lawless, unconstitutional usurpation on its back, the treaty is ratified—the law passes. No grave Senator, no independent representative rises to oppose this gross assumption of power. Did patriotism sleep on its post? Where were the watchful, the sworn guardians of the constitution, thus palpably violated? Where were the Senators, jealous of their rights? Where the representatives of the people, sent to guard the palladium of their liberties? All silent; not a word of opposition; not a whisper of doubt. And yet the violation, "gross, open, palpable"—more gross, more open, more palpable than the one we are now warned against, because in more points it contradicts the construction that is affirmed as the only true and orthodox faith by which we may be politically saved. Ought not this practical and contemporaneous construction, even if it stood alone, to create some doubt of the doctrines we are so vehemently urged to adopt? Ought not the example of Washington, even if, in our superior wisdom, we now, for the first time, guided by new lights, find it wrong, ought it not to command some little indulgence for those who follow it?

Will it be said that this example does not apply? Let the difference be pointed out; and where they differ, the example set by Washington will be found more at war with the principles laid down by the Senator from Virginia, than the acts which he now denounces as unconstitutional.

Will he refer again to the war-conducting power, and call the treaty with Algiers an armistice? The treaty itself replies to this answer—it is a treaty of commerce, as well as of peace.

But this is not an isolated case. In the very same year, on the same day of the year, the 30th March, 1795, David Humphreys received another commission, by letters patent from President Washington, authenticated in the same manner, constituting him commissioner plenipotentiary for negotiating a treaty of peace with "the most illustrious the Bashaw, Lords, and Governors of the city and kingdom of Tripoli," with like power of substitution. On the 10th February, 1796, he transferred his powers to Joel Barlow; and, on the 8d January, 1797, Mr. Barlow made a treaty with the Bashaw and his Divan, which was, in like manner with the former, approved by Col. Humphreys, at Lisbon, on the 10th February, 1797, and was ratified by the Senate the following session. Here we find three sessions, after the commission, pass, before the treaty is presented to the Senate for its confirmation, during all which, no nomination of either Humphreys

or Barlow was made. Surely, if a doubt had crossed the mind of the President, that mind of which the eminent characteristics were deliberation and prudence, if the shadow of a doubt had passed over it, would not the same regard for the constitution, for which he was equally remarkable, have induced him to consult his cabinet, to consult, as he frequently did, on other and less important occasions, the Senate? Sir, he had no doubts; the greatest and best, and most prudent man in the country had no doubts. His advisers had none — the Senate had none. The House of Representatives did not hesitate; and the nation, filled with men whose minds were enlightened by continued discussions of the constitution, approved. Yet we doubt. Nay, more, we decide; and, admitting no contrariety of opinion, stigmatize that very conduct thus pursued by Washington, as lawless usurpation. That great man, very soon after this, retired from office, carrying with him the benedictions of his fellow-citizens, and little suspecting that this wise and upright act of his administration would draw down on those who copied it the reproaches we have heard. John Adams, who, besides the great share he had in forming the constitution, was pre-eminently qualified to judge on every question relating to foreign intercourse; who might be styled the founder of American diplomacy—John Adams succeeded him. And he, too, strange as it may appear—he, too, fell into the same fatal error, or (if the case is as clear as is supposed) was guilty of the same unpardonable fault. He, too, on the 18th of December, 1798, put his signature and the great broad seal of the nation to a paper, vesting Richard O'Brien, William Eaton, and James Leander Cathcart, with full powers to negotiate with the Dey and Regency of Tunis, alterations in a certain treaty made in the year 1797, by Joseph Famin, who calls himself a "French merchant residing at Tunis, and chargé d'affaires of the United States." These gentlemen made the new treaty on the 6th March, 1799; yet neither the nomination of the French merchant, who made the first treaty, (which must have been in the time of General Washington,) nor of the three other commissioners, was ever submitted to the Senate. And it is remarkable that this last appointment was made on the 18th December, when the Senate was in session.

During the administration of the next President, Thomas Jefferson, only one treaty with the Barbary Powers (that with Tripoli) was made; but as the negotiation was carried on by Mr. Lear, the public Minister of the United States at that place, nothing can be inferred from this transaction that bears on the question; but Jefferson's co-operation in the two appointments which I have quoted, by General Washington, leaves no doubt of his construction of the constitution.

Here we have the practice of Washington, Adams, and Jefferson, uniformly the same, sanctioning every part of the conduct pursued by the present Chief Magistrate; and, in some instances, as I have shown, pushing the construction further than he has found it necessary to go. But this is not all: Mr. Madison comes next. If any voice can be called the oracle of the constitution, it is his; if any practice under it can be deemed void of error or intentional wrong, it is that of the wise, the venerated Madison. What did he do? He followed precisely the route in which his predecessors trod. In the year 1815, hostilities having been commenced by Algiers, he commissioned William Shaler, and the gallant and lamented Decatur, to negotiate with them. They concluded a treaty on board of the United States ship Guerriere. But he never nominated them to the Senate; yet the treaty, like the others, was ratified by the Senate in the succeeding session, without a question as to their right to co-operate in the appointment. He it was, too, who, in the recess of the Senate, sent the commission which made the treaty of peace with Great Britain.

Again: Difficulties having arisen as to the execution of the treaty with Algiers, another commission was issued on the 24th of August, 1816, to William Shaler and Isaac Chauncey, who renewed the former treaty, with alterations, on the 23d of December of the same year. And again the Senate were kept in ignorance of the appointment, until the treaty was sent to them for ratification. This is the last treaty with any of the powers professing the Mahometan faith, prior to the one that has given rise to this discussion. And, in forming this, the President, with stronger reasons for secrecy than any of his predecessors had, has only, as far as he has gone, followed their example—followed his own and their construction of the constitution—and exercised no power that had not for forty years been universally acknowledged to be legitimate. I bring the acquiescence down to this moment, because the questions raised on the Panama mission are not those to which this transaction gives rise. Then the objection was to an appointment of a peculiar nature—a mission, not to a particular power, but to a Congress of powers; it was not supposed to be strictly diplomatic; our agents, it was feared, were to act as deputies to a confederative Government, rather than as Ministers. And to this was added the difficulty, at that time first raised, to the power of creating a new mission in the recess; here, however, the first objection cannot apply, and the previous appointment by Mr. Adams takes away the second. The objection, then, to the making a treaty by secret agents, whose nomination is not sent to the Senate, is, I repeat, a new objection made to an established, and, as I believe, a perfectly constitutional practice. The objection is new, but it may yet be well founded, although I cannot perceive its force; and not perceiving it, must be permitted to think it passing strange that it never before occurred to one single individual, who has ever expressed his opinion

on the subject, as far as my limited information goes.

There are two other Presidents whose acts and opinions on this subject we have to examine, in order to complete the series.

On Mr. Monroe's accession to the Presidency, he found our peace secured with the Barbary Powers; he had, therefore, no commissioners to appoint to them; but he had participated, as the head of the Department of State, in those which had been sent by Mr. Madison; and we may, therefore, fairly suppose, that, if the occasion had offered, he would have followed the same course. But, during his administration, and that of his successor, it was found convenient, in the exercise of the same constitutional right of making treaties, to employ other agents than "ambassadors or public ministers," to form treaties with European and Christian powers, as had been formerly done with the Mahometan States of Africa. Differences had existed ever since the treaty of 1802 with Spain, not only of boundary, but on account of claims, to a vast amount. The settlement of the dividing line between the United States and Mexico would take from or add to our territory an extent sufficient for the establishment of several States. And the acquisition of Florida had always been considered as a matter of primary importance. If, then, the magnitude and importance of the objects; if the rank and dignity of the party, required that the negotiation should be conducted by public Ministers, and that their appointment should be confirmed by the Senate, here was the case. Here was not even the plea of the recess. For during the session of Congress, in 1818–'19, Mr. Monroe gave to Mr. Adams plenipotentiary powers to treat with the Minister of Spain, and make a settlement of all these important matters. He gave these powers by commission under the great seal. He never communicated the appointment to the Senate, although they were in session. The negotiation was carried on in the very place where they sat, and was concluded before they adjourned, by a treaty which purchased the two Floridas; settled our boundary, by abandoning our claims to the immense extent of country between the Rio del Norte and the Sabine; and made a charge on our Treasury of five millions of dollars. Yes, sir, this treaty was ratified by the Senate, and not one word of reprobation, not an accent of doubt uttered as to the irregularity of the commission by which it was negotiated; and both Houses concurred in passing laws for carrying it into execution.

Again: When Mr. Adams came to the Presidency, he in like manner, in the year 1826, commissioned Mr. Clay to treat of and conclude a treaty of commerce and navigation with the Minister of Denmark; which treaty was signed on the 26th of April, in the same year, during the sitting of the Senate, and in like manner ratified by them, although the appointment of Mr. Clay was never made known to the Senate, and of course was not confirmed by them. And we, sir, we ourselves, every one of us, who now hear or make these denunciations—we have ratified a treaty made with one of the greatest powers of Christendom, by a plenipotentiary commissioned under the great seal, whose appointment was never sanctioned or sent to the Senate for its advice; and that, too, a power with which before we had no diplomatic intercourse—with Austria—made by the present Secretary of State, under a special appointment by the President. Should it be said that this practice of employing a special Minister at home to make treaties with a foreign power, is of modern date; that it does not, like the case of the Mediterranean commissions, run back to the early part of our diplomatic history, I would answer that this, too, is an error, and that my construction is sanctioned in this also by the practice of Washington. As early as the year 1796, some doubts having arisen as to the operation of the third article of Mr. Jay's treaty, Mr. Pickering was commissioned to negotiate an explanatory article, which was agreed to, submitted to the Senate, and ratified without any nomination of the negotiator to the Senate.

Now, sir, does not this uniform, this unquestioned practice, carried through every Presidency, from that of the Father of his Country to that of the present incumbent; is it not strongly persuasive of the correctness of that construction which gives to the President the power to make treaties whenever he may deem it expedient, by a special agent, instead of a public Minister—to give full powers, under the great seal, to such special agent, and to omit nominating him to the Senate when he thinks proper? Will it be said that the instances I have last mentioned do not apply, because the Secretary of State was the agent? But he was the agent only by the special commission, given to him by the President—a commission, without which he could not have acted, which as his full power, he was obliged to interchange with the Minister with whom he treated, before the negotiation could begin. If, as Secretary of State, the duty could have been done, mere instructions would have sufficed—no commission would have been necessary. But in every instance commissions were delivered, in the same form, as to powers that are used for Ministers going abroad. The President might have selected any other individual, and the case is as strongly in point as if he had. Will the gentleman point out the difference between these cases which he, jointly with all of us, has approved, and that which he now so violently reprobates? If the President may appoint a special agent to make a treaty with a nation with whom we had none before, without submitting the nomination to the Senate; if he may make such an appointment for a negotiation here, can he not make a similar appointment for a negotiation to be carried on in Constantinople? If the latter is forbidden, where is the clause that authorizes the former? If

the former is legal, where is the clause that excludes the latter? Are not both exercised under the same constitutional authority? Why, then, sanction the one and denounce the other? It appears to me that a satisfactory answer to these queries would be difficult, even to the ingenuity of the mover of the amendment; and that it would be somewhat difficult for him to show that there is any one of the inconveniences and dangers which he apprehends, from the appointment of commissioners, with full powers, going to a foreign country, that does not attach to negotiations by special agents at home. But these dangers are imaginary in both cases. Nothing either of them can do has any force until we sanction it. And in requiring the assent of two-thirds of the Senate to every treaty, those who made our form of Government thought they might safely trust the discretion of the President in selecting the agents for making it.

But to remove all ground for the distinction, take an instance from the same collection of treaties which I have before quoted. In the year 1818, Mr. Gallatin, then our Minister in France, was commissioned jointly with Mr. Rush, our Minister at St. James', to negotiate a treaty with England, in the same manner that the Secretaries of State were commissioned to negotiate at Washington. This nomination was never submitted to the Senate, yet a most important convention, made under that appointment, was ratified by the Senate; so that here we have commissioners appointed at home, abroad, to Christians as well as infidels, in every form, in every character in which the power can be exercised, and in every form acknowledged by the co-ordinate branches of Government to be constitutional and right; and yet, sir, it is now undertaken to arraign and denounce it as a usurpation. The second ground of accusation, that the nomination, though made in the recess, was not submitted to the Senate when they met, has been anticipated. It may be justified on several grounds; which were those which actuated the President, as I am not in his counsels, I do not know. It may be justified on the necessity of keeping the mission a secret, until the result was known; on his constitutional power of originating a secret mission without the co-operation of the Senate; and on the inutility of naming persons to be confirmed in offices which were temporary in their nature, and which must expire before the confirmation by the Senate could be made, or at any rate before it could reach them. Thus the treaty with the Porte having been completed before the adjournment of Congress at the last session, it would have been useless to confirm the powers of the negotiators. I pass over the argument to show that, although the letter of Mr. Offley particularly states that he signed the treaty on Sunday, yet he must have been mistaken, because no Christian in a country of infidels would be guilty of a breach of the Christian sabbath. I pass that over with asking how often we ourselves, when duty required it, have not sat and deliberated within these very walls on the same sacred day; and whether disobedience to any of our legal acts, done at such a time, would be excused on the allegation of an impossibility of our having been guilty of the breach.

THURSDAY, February 24.

Penitentiary Punishment of Duelling, Gambling, and Forging in the District of Columbia.

On motion of Mr. CHAMBERS, the Senate resumed the consideration of the bill for the punishment of crimes within the District of Columbia.

Mr. C. said that, when the bill was last before the Senate, debate arose on a motion by the gentleman from South Carolina (Mr. HAYNE) to recommit the bill to the District Committee, with a view to striking out the clause relative to punishment for duelling, or being concerned in a duel. The amount and importance of the business before the Senate, and the expediency of early acting upon it, induced him to waive any remarks at this time on the motion, that the sense of the Senate might at once be taken upon it. If the bill was recommitted, the committee would of course report the bill with the clause stricken out; and he could see no necessity for its recommitment, because the question might as well be taken now.

Mr. HAYNE explained the reasons why it had not been in his power to make the motion at an earlier day. He was desirous of testing the sense of the Senate on this particular clause of the bill. If the recommitment took place, the committee would either strike out the clause, or so modify it as to meet the views of the Senate. A speedy decision on the bill was desirable, and he took the occasion to say, that, if this recommitment took place, there would be no further opposition on his part. Under the present provisions of the bill, not only the parties convicted of fighting a duel, but the bearer of the challenge, the surgeon, &c.,—every accessory—was to be punished by five years' hard labor in the penitentiary. With due deference to those who introduced this clause into the bill, he was of opinion that so severe a mode of punishment would destroy the whole object of the provision. The punishment was so severe, that no jury would be found to enforce the provisions of the law. The punishment for crime should be adapted to the prejudices, the passions, and opinions of the people, and a milder course would be found to answer a more practical purpose. Perhaps the better course would be to strike out the clause altogether from the present bill, and then, by special statute, prescribe the punishment for duelling. This bill went further than the laws of any State of the Union on the subject; and he thought that if the Congress of the United

States, under the auspices of the Senator from Louisiana, should pass a law determining what the punishment in such cases should be, the several States would adopt the regulations of such a law.

The bill was then ordered to be recommitted; but, at the suggestion of Mr. CHAMBERS, the vote was reconsidered, and the Senate struck out the clause referred to altogether.

Thus amended, the bill was passed.

Turkish Commission—Power of the President to Originate Missions.

The Senate having resumed the consideration of the appropriation to pay the negotiators of the Turkish treaty,

Mr. TYLER said, the Senator from Louisiana (Mr. LIVINGSTON) had commenced the speech which he yesterday delivered, by repeating, with much emphasis, the words "a lawless act, and in derogation of the rights of the Senate." These words had fallen from my colleague, said Mr. T., and seemed to have excited the feelings of the honorable Senator, and, in some degree, his displeasure. My colleague requires no aid from me, or any other individual, to justify either his language or his conduct. The motives of the last will at all times be above reproach; and the language which he may at any time use will never fail to convey most strongly the idea which it is intended to represent. I will, however, say to the honorable Senator, that if either my colleague or myself use expressions not familiar to the ears of courtiers, he must excuse our rusticity, and ascribe our fault to our course of education, and the land from which we come. The inhabitants of that republic are somewhat a bold and fearless race, and practise upon a principle which has been, for all time, prevalent amongst them, of calling things by their right names. If an act be done without law, they call it lawless; if in derogation of the right of others, they say so, whomsoever it may offend.

The same gentleman has more than intimated that this was not the proper place for this discussion; that it would have been better to have carried it on in secret session. I differ with him in this, as in much else. By and by I shall show that the opportunity was not afforded until the bill upon your table came up for consideration; but if it had been, our secret chamber is no place for the discussion of a great constitutional question. It was proper in every point of view, that the debate should be in this place. Here before the public, the attack should be made. In the face of the world our reasons should be given for our course of conduct, and for the attitude we assume upon this important subject. This discussion has been forced upon us, from what motives, and for what ends, I leave to others to determine. Every Senator here can testify that my colleague, in a day or two after taking his seat this session, announced his opposition to the course which had been pursued in regard to the late mission to Constantinople. The Secretary of State knew his opinions at an early day, and yet the plain, the obvious, the palpable course by which all controversy might have been avoided, has been made to yield to this. The torch of discord has been thrown among us, and the unity of the party with which we have, with but one exception, acted, is for the time broken up. This claim of individuals, resting merely on a contract with the President, is diverted from the ordinary course of private and individual legislation, and attempted to be thrust into the general appropriation bill.

I am aware of the effect of this, whatever the design. A hue and cry is to be raised at our heels. An anecdote will serve to illustrate its character. The night succeeding the day on which my colleague delivered his powerful argument on this question, the ice in the Potomac was put in motion, and, pressed on by the mountain torrent produced by the thaw, carried of a part of the bridge connecting this with the Virginia shore. A gentleman gave me the information, and said, with archness, the connection between Virginia and the President's mansion is now severed. My colleague's speech doubtless produced the thaw; and to him, also, will be ascribed whatever evil shall arise from this discussion. All are esteemed schismatics who oppose themselves, no matter upon what ground, to an error committed; and we shall be pronounced heretics by the political Catholic church. In other words, an act is done which in our consciences we cannot approve—which those who have the management of this affair are told in advance we cannot approve; and then we all are to be denounced as schismatics, and all the vials of wrath are to be emptied on our heads. This, sir, is a perversion of all justice, of all moral rule. Those who perpetrate the error, must surely be responsible for consequences resulting from it.

It is our duty, Mr. President, under all circumstances, and however situated, to be faithful to the constitution. *Esto perpetua* should be the motto of all in regard to that instrument, and more emphatically those into whose hands it is committed by the parties to the compact of union. Sir, parties may succeed, and will succeed each other; stars that shine with brilliancy to-day, may be struck from their spheres to-morrow; convulsion may follow convulsion; the battlements may rock about us, and the storm rage in its wildest fury; but while the constitution is preserved inviolate, the liberties of the country will be secure. When we are asked to lay down the constitution upon the shrine of party, our answer is, the price demanded is too great. If required to pass over its violation in silence, we reply, that to do so would be infidelity to our trust, and treason to those who sent us here. The constant effort of Virginia has been directed to its preservation; the political conflict of the hour has never led her to yield it for an instant. No matter with what solemnity the vi-

olation has been attended; although sanctioned by the two Houses of Congress and the President of the United States, and confirmed by judicial decision, she has not halted in her duty. How little, then, should we be entitled to represent her, if we could so far forget ourselves as to hobble in our course. Let me, sir, be distinctly understood. I lay down no rule for others. Senators here will prescribe rules for themselves. No doubt all will be governed by motives equally pure and honorable; but, holding the opinions which I do upon this subject, I should esteem myself the veriest recreant to my most solemn obligations, if I could bring myself to support this appropriation.

The Senator from Louisiana has pronounced it a new discovery which we have made—a new discovery, sir? Was it not proved to the Senate the other day, that the power had always been denied to the President of sending Ministers to foreign courts of his own mere motion? Sir, neither the discovery is new, nor the doctrine; both are as old as the constitution itself, as I shall presently demonstrate, from the very letter of that instrument. What was that question which but a few years since divided this Senate? What was the Panama question, but the bone, flesh, and sinew of this?

[Mr. LIVINGSTON explained. He had spoke of secret agencies: no one had ever objected to them as unconstitutional.]

Sir, said Mr. TYLER, this is no secret agency, in the diplomatic sense, but a secret embassy, or mission. But let us return to the Panama question. What was that? Nothing more than a mere abstract declaration made by Mr. Adams, that the right to depute Ministers without the interposition of the Senate, fell within the competency of the Executive power. He did not appoint, however, but, as the constitution required, nominated persons to the Senate for its advice and consent; and yet what was the course pursued? There then stood on this floor, arm to arm, and shoulder to shoulder, nineteen Senators, who, with their shields interlocked, moved with the irresistible force of the Spartan phalanx upon that enemy-principle which threatened to overthrow the constitution. The present Secretary of the Navy moved the resolution in the following words, viz:

"*Resolved*, as the opinion of the Senate, inasmuch as the claim of powers thus set up by the Executive might, if suffered to pass unnoticed by the Senate, be hereafter relied upon to justify the exercise of a similar power, they owe it to themselves and the States they represent, to protest, and they do hereby solemnly, but respectfully, protest, against the same."

Mark you, sir—a mere claim set up. The apprehension that that might be called into precedent, to justify the exercise of a similar power by some future Executive, was sufficient to produce so solemn a resolution as that which I have read. Let us look to what was uttered in debate on that question. The state of the vote has already been mentioned. I will read to the Senate some of the remarks which fell from the present Secretary of the Navy. Before I do so, however, let me speak my honest convictions. I do not believe that he has had any agency in advising this mission to Constantinople. I do not believe that he could be guilty of an inconsistency so gross and palpable. No man has more confidence in the firmness of his adhesion to the principles of the constitution than myself. In his attachment to the great doctrines of the democratic party, he is a fit and proper representative of the State of which he is a native—a State which has been distinguished by nothing more strongly than by her uniform devotion to the constitution. That star in our political galaxy has never shed "disastrous twilight," or undergone eclipse. Sir, I speak not *ex cathedra*. I have had no syllable of conversation with that gentleman; but, from my knowledge of his character, and other circumstances, I am led to the opinion which I have expressed. "I view," said Mr. Branch, referring to the resolution, "the usurpation which it notices and purports to repel as a link in the chain, threatening the most portentous and calamitous consequences to the liberties of this people." "Isolated, unconnected with any thing else, yet so plainly and palpably conflicting with the letter and spirit of the constitution, it is truly appalling to the friends of liberty." And again: "It is time to re-enact magna charta; it is time to re-assert the principles of the declaration of independence." The mere assertion by the President that he possessed the power of appointing Ministers, and of originating a mission, without consulting the Senate, produced these strong expressions. Magna charta was violated, and the principles of the Government required to be re-asserted. I might multiply quotations from the same speech, all equally impressive, but I will pass to that delivered on the same question by a gentleman, then a Senator, now a member from Kentucky in the other House. I deem it necessary to quote but one sentence in order to exhibit his strong convictions on this claim of power set up by Mr. Adams. [Mr. TYLER here read from Mr. JOHNSON'S speech.] "I think I might risk the decision of this question upon the hazard of a universal and unanimous opinion as to the plain common sense meaning of the constitution." To cite passages equally strong from the speeches of others, would not be difficult. The opinions then uttered by my colleague are the same that he has enforced in this debate. But I will give you the expressions and opinions of a gentleman who stands more immediately connected with the proceeding now the subject of discussion. I mean the Secretary of State—the person immediately charged with the management of our diplomatic relations—one upon whose advice the President doubtless reposed with confi-

dence. I have found no speech of his reported on Mr. Branch's resolution, and imagine that he delivered none; but he spoke on the Panama question, properly so called, and subsequently on the rules of the Senate. Let us see his speech on the first question. [Here Mr. T. read from that speech.] "The measure is deemed to be (that of sending Ministers to Panama without previously consulting the Senate) within the constitutional competency of the Executive; that we are only consulted to obtain our opinion on its expediency, and because it is necessary to come to us for an appropriation, without which the measure cannot be carried into effect. Yet, sir, the first blow that was struck in that great contest which subsequently convulsed the country, and the first voice that was raised to arrest the current of events then setting in, (speaking of the suggestion which was made by the first Adams relative to the mission to Berlin,) were on points, to all substantial purposes, identical with the present. Is it not a startling, if not an ominous circumstance, that so soon under the present administration we should have presented to us, in such bold relief, doctrines and principles, which, in the first year of that to which I have referred, laid the principles of the most bitter and unrelenting feuds? Does the analogy stop here? The men who then opposed the mission to Berlin were denounced as oppositionists—as a faction who sought the gratification of their personal views at the expense of the public good. They were lampooned and vilified by all the presses supporting and supported by the Government, and a host of malicious parasites generated by its patronage." Yes, sir, and we shall be lampooned and vilified for the course which we now pursue. My colleague read correctly the handwriting on the wall. What was fact formerly will be fact again. But let the storm rage, if it shall be so willed by those who control the operations of particular presses; I stand here the advocate of the constitution, and, if necessary, I am ready to become the victim in its place.

I am not yet done with the Secretary of State. I will read you a paragraph from a speech delivered by him on what was commonly called "the rules of the Senate," a speech delivered since I have had the honor of a seat on this floor:

"The same disposition to limit the popular branch was forcibly illustrated in the discussions of the foreign intercourse bill in 1798. It was upon that occasion contended, and successfully, too, that the House of Representatives had no discretion upon the question of appropriation for the expenses of such intercourse with foreign nations as the President saw fit to establish; that they would be justly obnoxious to the imputation of gross delinquency if they hesitated to make provision for the salaries of such foreign Ministers as the President with the assent of the Senate should appoint. What would be the feelings of real and unchanged republicans in relation to such doctrines at this day? Associated with them was the bold avowal that it belonged to the President alone to decide on the propriety of the mission; and that all the constitutional agency which the Senate could of right have, was to pass on the fitness of the individuals selected as Ministers. It was pretensions like these, said Mr. Van Buren, aided by unceasing indications, both in the internal and external movements of the Government, that produced a deep and settled conviction in the public mind that a design had been conceived to change the Government from its simple and republican form to one, if not monarchical, at least too energetic for the temper of the American people."

Indeed, sir, the avowal that the President alone possessed the power to decide on the propriety of a mission, and that all our agency consisted in determining on the fitness of the Minister to be sent, if not monarchical, is at least too energetic in its tendency, bold, and somewhat reckless; and yet a mission originated, and not even the names of the Ministers sent into the Senate; and that, too, notwithstanding a long session of that body had, in fact, intervened. Why, sir, here is not only a bold avowal, but the actual execution of that avowal with a vengeance. Not only no previous consultation with, but no nomination even ever submitted. The Secretary also voted for the resolution of Mr. Branch in the only form in which he could express his opinion. And yet, "ere those shoes were old," with which he followed (not "like Niobe, all tears," but with a heart full of joy and gladness) the last administration to its grave, the same doctrine is carried into full practice. What, sir, make war upon an abstraction; cause the thunders to roll and the lightnings to flash, in order to annihilate a mere abstraction, and yet call upon us to sanction its practical application! Will gentlemen recant thus their opinions solemnly recorded? Shall it be said that we can give two readings to the constitution, and that that which is unconstitutional in Mr. Adams's time becomes right and proper under General Jackson? Shall we put off our opinions with as much facility as we do our gloves? Have we not good grounds to complain of the Secretary of State, if he advised this mission? and that he did so I cannot bring myself to doubt. Has not the whole Jackson party cause to complain? Was there any question on which that party stood so deeply committed as on this? None, sir; not one.

Even if there existed an aptness in the cases referred to by the Senator from Louisiana as furnishing precedents to justify this mission, howsoever they might influence the President, they can furnish no excuse for the Secretary, his constitutional adviser. Those cases were all paraded in the discussion on the Panama question; they were commented on, and their force overthrown. Can an actor in that proceeding now repose for his justification on precedents which had been declared of no force or effect? Let it not be said that the Presi-

dent is alone liable to be questioned. The constitution has placed around him advisers in the several departments, and for the counsel they may give him they are answerable, not only to him, but to public opinion.

But, Mr. President, we are told by the Senator from Illinois, (Mr. KANE,) that these persons were not public Ministers. Now, sir, there is an old saying, and a very wise one—"save us from our friends, and we will take care of our enemies;" and never was it more applicable than on the present occasion. If an attempt is made to excuse a thing, and the excuse prove insufficient, better by a hundred times had it never been urged. Why, sir, if these were not public agents, what in the name of common sense were they? Formerly, and no doubt it is still the case, kings and potentates had their private ambassadors. They are deputed to transact some matter appertaining solely to the King, their master. They may be charged, like an Earl of Suffolk in former times, to negotiate a treaty of marriage; or, like somebody else, to present congratulations on the birth of an heir apparent, or to purchase a crown jewel. These would, indeed, be private agents, such as the President, not as President, but as an individual, may employ. But who would think for a moment of quartering such agents on the Treasury? Sir, it is the employment which gives character to the agent. If sent on a high embassy, involving the commercial interests of the country, whether his character be publicly known or not, is wholly immaterial; and the very quotation from Martens, which he has relied on, is sufficient to satisfy the Senator of this: for, says that writer, "secret embassies are of many sorts."

If the court to which he is sent (speaking of one employed on a secret embassy) "be informed of the object of his mission, he ought to be granted all the inviolability due to him as Minister." Did Mr. Rhind make known to the Porte his true chartacter? Was he not recognized in that character? Did he not exhibit his credentials, enter into a negotiation, and conclude a treaty of commerce and navigation? Who doubts this? The fact that the treaty is ratified, speaks all that I ask. But, sir, in what a lamentable position is this argument of the gentleman placed by the President's own avowal, made but a day since in the face of the public? I hold in my hand the Intelligencer of this morning, containing a message from the President to the House of Representatives, covering a letter from Mr. Rhind on the subject of certain fine Arabian steeds presented to him by the Sultan. [Here Mr. T. read a portion of Mr. Rhind's letter, in which he uses the following language:] "Although this was evidently not intended to me (speaking of the present) in my official capacity, since the Ministers were aware I could not accept them as such, still the gift was one that could not be returned without giving offence." And, but for his official capacity, said Mr. T., why should Congress be troubled with the subject at all? The mandate of the constitution interposes with the declaration, "that no person holding any office of profit or trust under the United States shall, without the consent of Congress, accept of any present, &c., from any king, prince, or foreign State." The President, then, acknowledges Mr. Rhind to have been an officer of Government; and, as I am indifferent about names, if gentlemen choose to unminister Mr. Rhind, if I may coin a phrase, I care not, so they do not deny that he was an officer of the Government. The language of the constitution embraces as well the case of an officer, however subordinate, as of an envoy extraordinary. But, sir, if the circumstance of these persons having been engaged on a secret mission converts them into mere secret agents of the President, I beg to know what becomes of us when we go into secret session. Do we cease to be public agents while sitting with closed doors? True, we sit not then in public, but in secret; but what new credentials are made out for us? Away, then, with these flimsy apologies. Let us meet this question boldly and fearlessly. Let us tell the President that he has erred. Let us be true to ourselves, to our constituents, but, above all, to the constitution. What is the language of that high instrument? "He shall nominate, and, by and with the advice and consent of the Senate, shall appoint, ambassadors, and other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein provided for and established by law." The obligation to nominate is one thing, that to appoint another. An appointment cannot precede a nomination, nor can it take place without the advice and consent of the Senate. Did the President nominate these commissioners, these ambassadors, these official agents? Gentlemen can take their choice of terms. No. Did he appoint them? Yes; no one doubts it. Has he appointed them by and with the advice and consent of the Senate? No: for no nomination ever was submitted to the Senate. What, then, is the inference? It is plain and palpable; I need not express it. Sir, is not this enough to give us pause? Language cannot be clearer, sense more unincumbered, or injunction more obvious. These arguments apply as well to the Ministers sent by Mr. Adams, so far as their true character has been made known, as to those sent by President Jackson. No one can sanction the one and disapprove the other, or disapprove the one and sanction the other. By a subsequent clause in the constitution, authority is given to the President to fill vacancies occurring during the recess. No man can mistake the true meaning of that clause—vacancies which occur between session and session of Congress should be filled by the President; but he is bound to nominate to the Senate during the session succeeding such appointment; and to guard and limit this power, the commission

expires with such session. Any other reading would invest the President with unlimited and uncontrollable power. Can we possibly mistake a text so plainly, so clearly expressed?

I have read to the Senate the clause in the constitution relating to this subject. I have said that no man could mistake the meaning. I beg leave to recant that expression. There is one class of men who may construe it differently: statesmen, they call themselves; but no more like statesmen of former times, "than I to Hercules." They belong not to the earth, nor deal with it justly; they spurn the ground on which they walk. Following the lights of a bewildered imagination, they rush into speculations, and, in their mad career, trample under foot rights natural and chartered. The constitution presents no barrier in the way. Its language, however simple and plain, is construed into an ambiguous text to suit their ruinous designs. Every thing is too plain and simple for their vast minds. They go for splendor; and what does not glitter, is regarded as worthless. May heaven, in its goodness, relieve us from all the tribe. Sir, I take the simple, unambiguous language of the constitution as I find it. I will not inquire what it should be, but what it is, when I come to decide upon it. The wisdom of our illustrious ancestors framed it; and when I am asked to exchange it for the policy of the hour, I answer, nay. No matter by what circumstances I may be surrounded—abused, slandered, vilified, as much as my bitterest enemies may please—this shall be my answer: Every day's experience satisfies me, that, amidst all the turmoil and confusion of parties, the first post of safety is, to stand by the constitution; the second post of safety is, to stand by the constitution; and the last post of safety is, to stand by the constitution.

The Senator from New Jersey (Mr. DICKERSON) cited, as matter of history, the nomination by the elder Adams, in 1799, of Mr. Smith, as Minister to the Porte; for what purpose I am at a loss to imagine. The appointment was made, but not accepted. In my conception, it operates disadvantageously to the recent proceeding.

When a boy, I learned that the elder Adams was the advocate of strong government. He had held up, by his writings, the British Government as the most stupendous fabric of human invention; and yet he deemed it his bounden duty to send no Minister to Constantinople without previously submitting the nomination to the Senate. Was there any greater necessity for doing so in this instance than in that? The objects were the same. If it be said that secrecy was more necessary now than then, might not the message have enjoined secrecy? And is there any man here who would have betrayed his trust? But, sir, are the forms of the constitution to be disregarded because the Executive may deem it proper to keep from the knowledge of the world its schemes of diplomacy? What is this but to make the Executive superior to the constitution?

With regard to the precedents relied upon in this debate, I have one answer for all of them; and it is, that, even if they were all in point, the constitution would remain unchanged. Shall we consecrate abuse? Shall we plead precedent to justify error? Is the legislation of Congress, or the action of the Executive Department, above the constitution? Shall the creature claim to control the creator? Pile precedent upon precedent until you make Ossa like a wart, and yet no sufficient justification is furnished for the Executive. Sir, I am willing to admit that these precedents may be urged, and I care not how successfully, in excuse of the President. They have misled others, and why not him? But in my opinion he has been misled, and it is my solemn duty to say so.

My colleague has anticipated the answer to all those cases, and it would be idle for me to tread upon the ground over which he has gone. They have no just application to the question now under discussion. Much stress is laid on the circumstance that treaties have been negotiated by the Secretary of State. Now, I do not mean to decide a question not before me, but I can well conceive a marked and strong difference between that case and this. The Secretary of State is an officer known to existing laws. He is nominated to, and appointed by and with the advice and consent of the Senate. He is charged with the diplomatic relations of the country. With Ministers near this Government, it is his duty to carry on correspondence. He is the true constitutional channel through which the sentiments of the President are made known to foreign nations; and I can see no great impropriety in the President's investing him with power to sign a treaty which the Secretary has himself negotiated, and to exchange its ratifications. But, sir, to make that case parallel with the present, imagine that the President commissions him as a Minister to a foreign country, without any nomination to the Senate; or, suppose he appoints him Secretary of State, without the sanction or authority of the Senate; then a case like that under discussion arises; and the answer to both is the same—the constitution forbids it.

I have expressed to you candidly my own convictions upon this subject; many gentlemen will, no doubt, take opposite views from those I entertain. If so, I know how to tolerate differences of opinion between men. Such Senators will, no doubt, be actuated by as honest intentions as myself. For myself, the path of duty is straight, and I shall walk in it. Shall I displease the President by doing so? If I do I cannot help it. But I claim to follow in the footsteps of his example; and bright and glorious is that example. When he exercised his veto over certain bills during the last session of Congress, he had my most unqualified applause. I have seen much in his career to applaud. The patriot who has shed his blood on the embat-

tled plain in behalf of his country, will not hesitate to approve the effort which is made to save the constitution from the effect of an error into which he may have fallen. He ratifies no error of ours. The two Houses of Congress, no doubt with solemn convictions of both its expediency and constitutionality, pass a bill, which, in his estimation, infringes on the constitution; with Roman firmness he forbids its becoming a law. Shall we rival this example, or shall we be less faithful to the trust confided to us? The different departments of the Government are intended to check each other. In the Legislature each branch has a check upon the other, and the President on both, while each has a check on him. We will do our duty then, as becomes us.

It is, however, repeated, that it is now too late to object; we should have objected to ratifying the treaty. I had hoped not to have heard this argument repeated, after the conclusive answer which was given to it by my colleague. When a treaty is submitted to the Senate, the only question which properly arises is, merely, is it good, or is it bad? If the first, it should be ratified; if the last, rejected. The President is invested with full power to negotiate all treaties; and when he asks an appropriation to the Ministers employed in negotiating it, the question then for the first time comes up, as to the legality of their appointment. Here, then, is our reason for not having discussed this matter in secret session, apart from all others. But, furthermore, two alternatives were presented, and we had a right to exercise a sound discretion in choosing between them. We would obviously take that which would produce the slightest injury. Again, it is said that we have taken to ourselves the benefit of others' labor, and we ought to pay for it. No one denies it. It has never been denied. But I take it that there is a manifest difference between an application made by the Government, and one made by an individual. The one addresses itself to our obligations of duty, and the other to our convictions of what may be just or equitable. To sanction the first, is to approve the course which the administration has pursued, and to sacrifice principle. To respond to the supplication of the individual, is to obey the suggestions of a benevolent policy. The error of Government we will not sanction, but we will redress to the man the injury which that error may have produced, but it must be on his private petition or application. The Secretary of State would then be heard as a mere witness in behalf of the applicant, not as an officer of Government making a requisition upon us. I care not, however, for the mere form in which this thing is done, provided the great principle be saved; and, before I take my seat, I shall move an amendment which will save that principle.

Why, then, should we have been goaded into opposition to the administration by a perseverance in a course which we cannot approve? Why presented to the public in an attitude which we earnestly desire to avoid? Is it a part of the policy of the times? Heretofore—for we have differed from the President but upon one question of importance—we acted then, as we do now, upon high principles. We deemed it then, as the constitutional advisers of the President, our imperious duty to differ from him in opinion. The principle involved was intimately connected with the freedom of the press; we deemed it as hazardous to make the press the prominent subject of Executive favor, as of Executive displeasure. The influence of money is more irresistible than that of force. In this country there is no danger from the last; but the first is the lever by which free systems are overturned. We rested upon the good sense of the public for our vindication, and folded our arms in silence. We thereby gave the most conclusive evidence of our desire for the President's success in the administration of the Government. What was our reward? Were we treated with ordinary civility? We were declared to be in opposition to the administration. Hard names were bestowed upon us; abuse copiously poured out on our heads; our motives assailed and misrepresented; our designs represented as dark and evil. This language has been persisted in for the last twelve months. *Cui bono?* For the good of the President, or of the party to which we belong? Is this the way to attach high-minded men to any cause? Human nature, speaking almost audibly from the heart of all, answers in the negative. A new discovery was made. My colleague was represented as an old federalist, the moment he gave a vote consecrated, as I verily believe it to be, to the purest republicanism. The history of his life, exhibiting him as it did, reared in the very arms of democracy, was not sufficient to protect him. The circumstance of his being an actor in the spirit-stirring crisis of 1798–'9; of the part which he bore in that session of Congress which witnessed the retirement of the elder Adams from the Presidency; of the uniform consistency of his life in adhering to the governmental doctrines with which he set out; of the distinguished part which he bore in the late arduous struggle; nothing was sufficient to protect him from this charge, or shield him from the bitterness of these hostile attacks. For myself, I had nothing but a conscious integrity to plead in my behalf, and that availed me as little as the services of my colleague availed him. Our own constituents urged no complaint; on the contrary, I seriously declare that I have scarcely seen the man within the broad limits of Virginia who did not approve our course. To use the language of one of her citizens, that "unterrified" commonwealth can never be operated on by causeless clamor. None of these attacks were made from thence, or from any part of the South. Nor did any come from the West. From whence then did they proceed? They came from the North, and in all their vi-

olence from one particular State. "Call you this backing of your friends?" Is this the mode to consolidate a party? It is a modern discovery, and unknown heretofore to the world. We could not justify it to ourselves, then, Mr. President, to remain silent on this new occasion on which we are compelled to differ from the administration. Our opinions and our arguments will go to our constituents, and I fear not the result of the verdict they will return.

This has been called a mere question of power between the Senate and the President. Sir, it is a question whether the constitution is supreme, and binding upon all. But if we were now forming the Government, I would add to the power of the President not even so much as would turn the scales by the hundredth part of a hair. There is already enough of the spice of monarchy in the Presidential office. There lies the true danger to our institutions. It has already become the great magnet of attraction. The struggles to attain it are destined to enlist all the worst passions of our nature. It is the true Pandora's box. Place in the President's hands the key to the door of the Treasury, by conferring on him the uncontrolled power of appointing to office, and liberty cannot abide among us. In the language of Lord Chatham, this would be to inflict the *irremedicabile vulnus*. "Not poppy, or mandragora, or all the drowsy sirups of the world, could medicine" us "to that sweet peace" which we should thereby lose. No, sir; the glittering diadem is already studded with jewels, and ambition evermore urges its votaries to clutch it. What would it not be if you adorn it with blazing diamonds?

If, then, we stand alone, we shall oppose the principle which has now been carried into practice. It would be a proud distinction; but this will not be our fate. Indications have already been given of a contrary character, and I hail them as a sure augury of success.

In conclusion, Mr. TYLER offered the following proviso, by way of amendment to Mr. KANE's proposition:

"*Provided, always*, That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons, by the President alone, during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

Mr. BROWN, of North Carolina, next rose, and observed, that, when he had taken his seat that morning, he had entertained but little expectation that he should have entered into the discussion of the subject then under consideration; but, unprepared as he was, the extraordinary course which it had taken had induced him to depart from that determination, and to claim the indulgence of the Senate, succinctly to present his views in opposition to the motion which proposed to strike out the appropriation making compensation to the commissioners appointed by the President of the United States to negotiate a treaty of commerce with the Turkish Government.

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the case, in which General Washington had appointed commissioners to treat for peace with the Dey of Algiers, he proceeded as follows: "The next remark I shall make upon it is, that, even according to the representation given of it, it was the case of an agent sent to a barbarian people, who were not then, and have never since been, recognized as forming any component part of the family of civilized nations. Let me not be told that the constitutional power of the President is the same, whether exerted in reference to a savage or civilized nation. We all know that this is not so. No appointment of a Minister, who has ever been employed to negotiate for peace, or for any thing else, with any Indian tribe, whether dwelling within or without our territory, whether Osage or Seminole, has ever been laid before the Senate for their consent. They are all considered as agents of the President, and not public Ministers of the people; and all our intercourse with barbarians must, of necessity, present anomalies, from which no principles can be inferred. I will not go into reasoning to show why this must and ought to be so, although it would be easy to show it. I merely state the fact, which is conclusive, to prove that the case of a mission to Algiers, or to the Choctaws, can never be a precedent to justify a mission to Panama." Mr. B. said that, in the remarks which he had read from the speech of the Senator from Virginia, he thought the distinction which he had taken between the case of the Panama mission and the one in question was fully sustained, and that it was clearly conceded that the President could, constitutionally, appoint agents to negotiate with a barbarian nation, without the previous consent of the Senate. He would ask, where was the distinction as to the power to send a mission to the then existing Government of Algiers, and that sent, under the present administration, to the Turkish Government? If the principle holds good in the one case, it appeared to do so equally in the other. If the President can exercise the power in reference to any one nation of people, whether savage, or otherwise, it appeared to him to follow plainly that he could do so in reference to all, as the constitution did not vary the power of the President to appoint commissioners to treat with foreign nations, according to their degrees of barbarism or civilization, but afforded a fixed rule as to the power of the President, applicable to nations of every condition.

Mr. B. said he had heard with a degree of surprise which he could not conceal, in the course of this debate, an attempt to discriminate between the Chief Magistrate and his cabinet advisers, attributing all responsibility to them in relation to the Turkish treaty. This was, indeed, a novel doctrine in this country, and one which he would venture to say was not in accordance with the theory of our Government. The doctrine of Executive infallibility was unknown to our form of Government; the President was alone responsible for his official acts to the people of the United States, and, he believed, would never seek to escape responsibility in the discharge of his public duties: he must, therefore, be permitted to say that he did not think the remark of the gentleman from Virginia (Mr. TAZEWELL) was to be received as a very flattering compliment to the President, when he expressed his perfect confidence in the honesty of his intentions, but believed that he had been deceived by his Ministers, who were supposed to have advised him to this course.

Mr. TAZEWELL in reply to Mr. LIVINGSTON: The honorable Senator from Louisiana, said Mr. T., has again undertaken to chide me for the unmeasured language in which I have described the act of the Executive, concerning which I spoke when I last addressed the Senate. I can readily conceive that the strong terms I employed to characterize this transaction may not be very familiar to the fastidiousness of courts or palaces, where the dulcet sounds of approbation and admiration only are commonly heard. But as my words denote precisely the opinions I desired to communicate to those I addressed, and were merely the abbreviation of the conclusions to which I thought I had entitled myself, by the arguments I had used, I was not aware that I had violated any rule of etiquette here, in thus summing up the reasoning upon the subject; I had proved, at least to my own satisfaction, that the constitution furnished no authority to the President for what he had done; therefore, I felt myself justified in speaking of this act as unconstitutional, and as lawless. If such is its true character, all must concede that a power exerted by a President without warrant or constitutional grant is a usurpation on his part; and as such a usurpation in this case was a direct and plain infringement of the privileges of the Senate, it must be a gross violation of the constitution, in flagrant derogation of the rights of this body. To the Senate I certainly owe no apology for the earnest appeal I made to them, to induce them to vindicate their violated rights, to prove themselves faithful depositaries of the trusts confided to them by the constitution, and never, by a refusal to assert their privileges, to countenance the idea that they could be guilty of a base surrender of the rights conferred upon them by the States they represent, which rights so conferred are in truth but duties imposed by our constituents for their own wise purposes. This would be a dereliction of duty on our part, which, however much it may be desired by any other department of the Government, could scarcely find justification or apology here or elsewhere.

In expressing these strong opinions, I certainly neither measured nor weighed the force of the language necessary to convey them. But if this or any other honorable Senator would have been pleased to furnish me with the proper courtly phrases in which I might

have communicated my thoughts, I would willingly have adopted them, provided they would have expressed my opinions with equal precision. I doubt much, however, whether I should have escaped the censure of the honorable Senator from Louisiana, if I had borrowed my terms even from his own works, or from the precedents furnished by the speeches of some of those by whom the President is now surrounded, which speeches were delivered by them during the Panama debate. President Jefferson, now so much eulogized by this honorable Senator, was not always regarded by him, I believe, as entitled to such encomia. One at least of the acts of this President was characterized by this Senator in language as unqualified as any I have used; and a reference to the speeches to which I have alluded will furnish many examples of much stronger phrases than any I have employed, and this too in relation to the same subject. These terms were then applied, however, to the assertions of President Adams; and I have spoken of the acts of President Jackson, *et tempora mutantur*, although the constitution remains the same.

But, sir, let no one think that I mean to justify or even to excuse what I have said, by the examples of others, or even of the President himself. My justification is, that whatever I have said, I thought; and that which I think of the public acts of public men, I feel myself at perfect liberty to speak here, whenever a proper occasion arises so to do. In this case, I neither sought nor made the occasion. I would have avoided it if I could. But the President has chosen to present his application to this body, asking us to appropriate the money of our constituents to redeem his pledge of the public faith, plighted without our sanction or any constitutional warrant, and I am so called upon to approve the act. Forced thus to inquire into the character of that which has been done, I am constrained to speak of it as I think it merits. I have done so, and in so doing, have done but what my duty required.

Mr. President, this debate has taken the precise course which I foresaw it would take. The advocates of this appropriation, instead of meeting or controverting any position I have maintained in reference to the proper construction of the constitution, have endeavored to justify what has been done by the precedents they cite, and the practice they wish to show to have been settled. The Senator from Louisiana alone has expressed any doubt as to the correctness of the interpretation which I have given of the constitution. At first, this doubt was rested upon an inversion and transposition of the terms used in the instrument. This attempt, however, seems to be abandoned by him; and he now seeks to attain the same object, by inserting a stop where there is none. To this new process for changing the meaning of its provisions, I have no other answer to give than this—blot out all the stops, and both the learned and unlearned will replace them as they now are, because they will still concur in reading the instrument as I have read it, and in construing its language as I have construed it. According to this construction, I repeat, the President alone may nominate, but, by and with the advice and consent of the Senate, only can appoint to any office; and when vacancies happen during the recess of the Senate, the President alone may fill up such vacancies, by temporary commissions only. Here I will leave this suggested doubt, confident that it will never ripen into certainty anywhere, but in some hot-bed prepared to force its growth unnaturally.

The Senator from Louisiana next draws a distinction between the power of the President to make treaties and his power to make appointments to office. This distinction he seeks to support by a reference to the precedents he has cited. This distinction is certainly new. If to be sustained at all, it must be by the force of the precedents only, for the words of the constitution as explicitly restrain the one power as they do the other, and in precisely the same mode. Each of these powers is given to the President; but in the very grant itself they are both required to be exercised by him, "by and with the advice and consent of the Senate" only; and the only difference between them is, that, in making treaties, the concurrence of two-thirds of the Senators present, and, in making appointments, the concurrence of a majority only, is required. Then, is it not strange, that, in the very case where the constitution imposes the strongest restraint, it should be contended that none exists; and yet should be admitted that, in the other case, the restraint is effectual, although this restraint is imposed by the same words repeated in the very next member of the same sentence?

But, sir, how are treaties to be negotiated? Certainly by some officer of the Government; and this, whether they are negotiated at home or abroad. For it is asking of us too much, when we are required to admit that he who has the commission of the Government, which commission is signed by its Chief Magistrate, authenticated by its great seal, and wherein is expressed, that, in consideration of the high confidence reposed in him, authority is thereby given by him to pledge our faith and honor, is not an officer of the United States. So that the question still recurs, can the President alone, without the advice and consent of the Senate, create such an office? I say create such an office; for when the commission is granted to negotiate a treaty abroad, with a nation at whose court we have never had any representative, the office is created: for, as I have shown, there is no pretext for saying that such an office is then vacant, or that the President, in making the appointment to it, is merely filling up a vacancy, and a vacancy which has happened, too, during the recess of the Senate. Now the Senator from Louisiana admits that the President alone cannot make an original

appointment to any office. What, then, becomes of his distinction between the power of the President to make treaties, and his power to make appointments, in all cases where, to make a treaty, it is necessary to make an original appointment?

Sir, the precedents may be searched from the birth of this Government to the day of the date of the Turkish treaty, and but few cases will be found of a treaty negotiated by any other than a diplomatic officer of the United States, whose appointment, if an original appointment, had not been made by and with the advice and consent of the Senate. The few cases existing, in which this does not appear, are either cases occurring, "*flagrante bello*," with the power treated with, or cases of compacts entered into with piratical hordes or savage tribes, the dependents or tributaries of your own, or of some other sovereignty. All the precedents referred to by the Senator from Louisiana are of this description. These precedents, therefore, do not touch or apply to the question I have discussed, and which is presented in this case, unless we are prepared to say that the principles of war justify the practice of peace, or that the usages which necessity requires to be adopted in our intercourse with barbarian powers and dependent States, constitute the rule which ought to regulate our intercourse with the oldest, and most solemnly and most universally recognized sovereignties on earth.

Even this the Senator from Louisiana would have us to do, for he ridicules my ideas that the existence of war gives to the President power that he may not rightfully claim in peace; or that there is any difference between the piratical Barbary hordes and the Ottoman empire. Now, suppose I should even admit that the distinction which I drew between the cases of war and peace was without any just foundation, is it fair to infer the general rule of peace from the exception of war? Or is it wise or safe to contend, that what is acquiesced in without murmur, during the storm of war, is therefore right, and may be properly repeated in the calm and "piping time of peace." I pray the Senate to think well of the consequences which may and must result if they sanction such doctrine as this.

Peace gives the rule, and war the exception to it. Nor is it of little consequence to the present argument, whether the exception be *de jure* or *de facto* only. It is but an exception in either case; and we reason erroneously when we seek to find the rule in the exception to it. But if it be conceded that the exception exists *de jure*, and is established by the constitution itself as an exception, then this exception proves the general rule to be different. Now, I contend that the exception does exist *de jure;* and that in war the President may lawfully negotiate a treaty of peace with the enemy, when, where, and how he pleases, and by the intervention of whomsoever he thinks proper to employ for that purpose. I prove it thus:

The legitimate object of all war is peace. To attain this desirable end whenever war exists, the constitution gives to the Executive every lawful means for its accomplishment. Hence, he may lawfully order, and by his subordinates effect, the burning of towns, the sacking of cities, the devastation of the enemy's country, and the slaughter of its inhabitants; for, alas! sad experience has taught mankind, that such are the necessary means by which alone most commonly war can be terminated, and the desirable end of peace attained. Now, surely, if the Executive may lawfully do all this for such an object, he may attain the same required end by other means less destructive, and more consonant to the dictates of humanity. If he may lawfully negotiate for peace by blood and carnage, may he not negotiate for the same object by argument and persuasion? It is true you call the one battle and bloodshed, and the other negotiation, yet each of them is but a means for the accomplishment of peace, the great and only justifiable end of all war; which end it is the bounden duty of the Executive to effect by all proper means, whenever war exists. And what at last is this treaty of peace, until it is ratified by the proper authority, that is to say, until, in this country, its ratification has received the advice and consent of the Senate? It is little else than a mere armistice. Now, none can doubt that the Executive may lawfully conclude an armistice when, where, and how he pleases, and this under his general power to conduct the existing war in that mode which, in his discretion, peace, its only justifiable end, seems to require.

Here, then, is one answer to all the precedents cited by the Senator from Louisiana, of treaties made with the Barbary Powers during the administration of our two first Presidents. At the time all these treaties were negotiated, war existed between these powers and the United States. Moreover, two of these treaties (being all of this description that were concluded during the administration of Washington) were concluded by Mr. Humphreys, an acknowledged diplomatic officer of the United States, who had been previously and regularly appointed our Minister to Portugal, by and with the advice and consent of the Senate. In concluding these treaties, too, Mr. Humphreys acted in pursuance of the instructions he had received, the substance of which instructions had been previously submitted by the President to the Senate, and had received their approbation so far back as the 8th of May, 1792, as our journals show. These cases, then, are but cases of treaties made by a proper officer of the United States, whose appointment and whose instructions had previously received the confirmation of the Senate. As to the mere *internuncii* employed by Mr. Humphreys himself in his intercourse with the Barbary Powers, and who acted under appointments from him, and not from the President, I presume it cannot be necessary for me to say a single word.

Doubtless, the Minister might employ what messengers, interpreters, or subagents, he thought necessary, and the obligation of the instrument, put into form by them before it received his assent, could neither be strengthened nor weakened by their signature, whether it was vanity or necessity that subscribed it.

The same answer will equally apply to the cases of the treaties afterwards concluded with some of these same powers during the administration of President Madison. War again existed between the United States and these powers, when these treaties, too, were concluded. Nay, such is the capricious and rapacious character of these corsairs, and such their ignorance or contempt of the provisions of the public law, and the usages of civilized nations, that it is difficult to determine when war does not exist with them. It is this very circumstance which constitutes one of the great causes why your intercourse with them always has, and always must produce many anomalies, from which no principle or rule can properly be deduced. But if I wanted an apt illustration of the truth of my position, that the power of conducting a war necessarily includes the power of conducting it by negotiating for peace, I should find it in the circumstances attending one of these very treaties. The gallant Decatur had just captured the Algerine squadron. Hastening from the scene of his conquest, he presented his victorious fleet before the port of Algiers, ready to fire upon the city, and to lay it in ashes, if necessary. To save themselves from the imminent danger, and to gain time for preparation, the enemy wished to parley, professing a wish to negotiate a peace. His answer to their proposition was, "Here are the only terms of peace I can accept. Sign and ratify this treaty, and our nations are friends again; reject it, and I must do my duty. I give you two hours to decide." Within the time prescribed, the treaty was returned, duly executed on their part; and hence was concluded, on board of his own flag ship, the United States ship Guerriere. Now, sir, will any one say that, in thus acting, this hero violated any precept of the constitution of his country? And, if not, it surely cannot be pretended that the President could so offend, by authorizing that to be done, which, when done in pursuance of his orders, was rightfully done. Yet, if rightfully done, war must give power to the Executive that in peace is forbidden.

Again: Is it correct to say that there is no difference between the piratical hordes of Algiers, and Tunis, and Tripoli, the professed tributaries and acknowledged dependents of the Sublime Porte, and the Ottoman empire itself? This is an assertion which I confess I did not expect to have heard made in the Senate of the United States. My historical recollections do not deceive me, I think, when they lead me to say that the Ottoman Government is now the oldest in the world. While every other known Government has been oftentimes changed, destroyed, and reconstructed, that simple despotism, sustained as it is, alike by religion and by force, has ever remained unaltered from its creation, now nearly twelve centuries ago, until this hour. Before the discovery of America by Columbus, the seat of the Turkish empire was fixed where it now is, at Constantinople; and never since has that capital been profaned by the presence of any foreign foe. Almost two hundred and fifty years ago, all Europe trembled at its onward march; and the most powerful of European sovereigns fled from the smoking ruins of his capital, Vienna, to escape this enemy. Much more than a century since, Bender, one of its distant provincial towns, offered a safe asylum to the unfortunate Swedish monarch, when flying from the disastrous field of Pultowa; and Turkish faith and Turkish power would never permit that asylum to be violated. Deprived since of some of its domain by the Russian arms, it nevertheless still ranks as one among the principal powers of the world, having been always recognized and always respected as an independent and great nation by every State in Christendom. It does not seem very becoming in us, almost the youngest of the great family of nations, to wish to degrade this ancient and powerful sovereignty, not less remarkable for the proud simplicity, than for the strict honor and fidelity of its character, (and this, too, at the moment when we have just concluded our first treaty with it,) by comparing it with its own tributary dependents, whose piratical pursuits, and open contempt of all the usages of civilized States, have ever prevented every power from recognizing any of them as an equal sovereignty, or trusting among them any other representative than an humble consul. As well might we compare the Russian Government with some wretched band of Esquimaux, or horde of fierce Tartars, dwelling within its limits; or the Government of the United States with the Cherokee nation, or the tribe of Winnebagoes, dwelling within ours.

It is strange, too, that this assertion should be hazarded now, when it is proposed by the very amendment before us to appropriate a sum of money for the new mission to the Sublime Porte, which sum far exceeds in amount the aggregate of all the sums proposed to be appropriated for our missions to Russia, to France, and to Great Britain. To justify this appropriation, a list of the foreign Ministers of the different nations of Europe, now accredited at the Turkish court, is sent to us, which list presents a diplomatic corps that, in rank, in the number of States represented, and in the compensation granted to these Ministers, far exceeds any such corps assembled at any other court in the world! Yet, sir, that nation, at whose court princes or noblemen of high rank have not felt degraded to appear as Ministers, and whose sovereigns intend to honor them by such appointments, is in the Senate of the United States to be sunk to the level of its own tributaries, to whose castles none other than a consul

has ever been sent, and this for the most obvious reasons.

The case of treaties concluded here by a Secretary of State, the Senate must at once perceive, touches not the question I have presented. No one can doubt that he is an officer of the United States, who being charged by the law of his creation with the superintendence of all the foreign relations of the country, may very properly be instructed by the President to negotiate a treaty here. In his case, the power given to him has no other effect than to charge the old office with a new and very proper duty. It creates no new office in him, as we all know; for although we have heard of pay for constructive journeys never performed, yet even the persons who thought themselves entitled to such compensation, have never presumed to ask for constructive "outfit and salary" for the performance of this new duty merely. It would be absurd, too, to say that the full power given to the Secretary of State to negotiate a treaty here, could entitle him to any of the privileges and immunities accorded by the public law to such as are sent abroad with such power. It is this, at last, that constitutes the true test whereby to ascertain whether the agent appointed to negotiate a treaty is an officer of the United States, in virtue of such an appointment. For as the immunities conceded by the public law are official privileges merely, he who acquires none such in virtue of his appointment to negotiate a treaty, is not thereby made an officer. But wheresoever the appointment is designed to draw after it pay at home, and immunity abroad, then it creates office. Now such is the case of these commissioners; and such never was the case of any Secretary of State.

I have to notice but a single other argument of the Senator from Louisiana. He tells us that this was not a new mission, for it had been previously established by the last President in the appointments of Messrs. Crane and Offley, made by him in like manner, and for the same purposes with the present. Sir, from this day forward, let us not repeat the phrase and promise of "reforming the abuses which had crept into this Government." It is high time we should drop it, when honorable Senators think they justify a violation of the constitution by the present Executive, by regarding it as a mere continuation of the usurped authority of his predecessor. The question we have to decide is, whether the constitution authorizes the President to create a new office, without the advice and consent of the Senate, by instituting a mission to a nation with which we never before had established any political connection or diplomatic relation. In answering this question, it is gravely said that the present President has not done so, because such a mission was secretly and ineffectually attempted to be established by his predecessors; and this secret and vain effort to strip the Senate of their highest privilege at that time, sanctifies and justifies the actual deed afterwards done. Much better would it be to say at once, that because President Adams publicly proclaimed in the Panama message that such a power was "within the constitutional competency of the Executive," therefore it must be so. But as this argument would scarcely find favor anywhere now, it is deemed better to rely upon the secret and ineffectual attempt, rather than upon the open and avowed opinion of this President. When President Adams publicly announced this opinion, its correctness was as publicly denied and controverted here; and surely his hidden acts, which could not be censured, because they were not known, are even of less weight as authority than his declared opinions. What may be the weight and authority of his opinions upon this subject now, I know not, but I well know how they were regarded by some formerly; and at the very time, too, when this act of his was secretly done. My opinions upon this subject then coincided with those entertained by others to whom I have alluded, and mine certainly have undergone no change since.

FRIDAY, February 25.

The Powers of Congress to lay and collect Duties, and the Power to regulate Commerce, distinct and inconvertible Powers.

Mr. BENTON laid on the table the following resolution:

Resolved, That the powers conferred on Congress by the States to lay and collect duties, and to regulate commerce, are distinct and inconvertible powers, aiming at different objects, and requiring different forms of legislative action; the levying power being confined to imports, and chiefly intended to raise revenue; the regulating power being directed to exports, and solely intended to procure favorable terms for the admission of the ships and products of the States.

2. That the power to lay and collect duties on imports was solicited by the founders of the present Federal Government, and granted by the States, for the express purpose of paying the public debt, and with the solemn and reiterated assurance that the duties levied for that purpose should cease the moment the debt was paid—which assurance was given in answer to objections from the States, and to quiet the apprehensions expressed by some of them, that the grant of power to Congress to raise revenue from the commerce of the States, without limitation of time or quantity, and without accountability to them for its expenditure, might render Congress independent of the States, and endanger their liberties and prosperity.

3. That the public debt will (probably) be paid off in the year 1834, and the amount of about twelve millions of dollars of revenue will then be subject to abolition, and ought to be abolished, according to the agreement of the parties at the establishment of the present Federal Government, and in conformity to the present actual condition and interest of the States.

4. That an abolition of twelve millions of duties will be a relief to the people of from about sixteen

millions of taxes, (estimating the retail merchant's advance upon the duties at one-third,) and that the said abolition may be made without diminishing the protection due to any essential branch or pursuit of domestic industry, and with manifest advantage to most of them.

5. That, for the purpose of enabling Congress to determine with entire safety to every interest, and with full satisfaction to the public mind, what branches and pursuits of domestic industry may be entitled to protection, and ought to be guarded from the injurious effects of foreign competition, a joint committee of the Senate and House of Representatives ought to be appointed to take the examinations of practical men (producers, consumers, and importers) in all doubtful cases, and to report their evidence to the two Houses of Congress.

6. That the said committee ought to be appointed at the commencement of the next stated session.

7. That the power to regulate foreign commerce was granted to Congress by the States, for the express and sole purpose of enabling Congress to obtain and secure favorable markets abroad for the exports of the States, and favorable terms for the admission of their ships; and to effect these objects by establishing an equitable system of commercial reciprocity, discrimination, and relation, which should measure back to every foreign nation the same degree of favor, or disfavor, which itself measured out to the commerce and navigation of the United States.

8. That the power to regulate foreign commerce, although one of the first of the enumerated powers of the constitution, and the enduring cause of its adoption, has never yet been exercised by Congress.

9. That the approaching extinction of the public debt, and consequent obligation to abolish, and advantage in abolishing, about twelve millions of annual revenue, will enable the United States to receive a large portion of her foreign commerce, say the one-half thereof, free of duty; and that the fair principles of a just reciprocity, the dictates of obvious policy, justice to the States, and the constitutional duty of the Federal Government, already too long deferred, will require this Government to demand equivalents from all nations which may wish to be admitted to a participation in the enjoyment of this great amount of free and unrestricted trade.

10. That the free importation of the following articles (among others) may be admitted into the United States without compromising the prosperity of any branch or pursuit of domestic industry, and with manifest advantage to most of them, namely: linens, silks, wines, coffee, cocoa, worsted stuff goods, several descriptions of woollens, several qualities of fine cottons, several kinds of spirits, &c., &c.

11. That the free importation of said articles ought to be offered to all nations which shall grant equivalent advantages to the commerce and navigation of the United States, and will receive the products of their industry, namely: fish, furs, lumber, naval stores, beef, bacon, pork, grain, flour, rice, cotton, tobacco, live stock, manufactures of cotton, leather, wool, and silk, butter and cheese, soap and candles, hats, glass, and gunpowder, lead, shot, and sugar, spirits made of grain and molasses, &c., &c., or some adequate proportion thereof, either free of duty, or upon payment of moderate and reasonable duties, to be agreed upon in treaties, and to continue for a term of years, and to no other nations whatever.

12. That there is nothing in existing treaty stipulations with foreign powers to prevent the regulation of our commerce upon the foregoing principles.

13. That all commercial nations will find it to their advantage to regulate their commerce with the United States on these principles, as, in doing so, they will substitute a fair and liberal trade for a trade of vexations, oppressions, restrictions, and smuggling; will obtain provisions for subsistence, and materials for manufactures, on cheaper terms and more abundantly; will promote their own exports; will increase their revenue, by increasing consumption and diminishing smuggling; and, in refusing to do so, will draw great injury upon themselves in the loss which will ensue of several great branches of their trade with the United States.

14. That the agriculture, manufactures, commerce, and navigation of the United States would be greatly benefited by regulating foreign trade on the foregoing principles; first, by getting rid of oppressive duties upon the staple productions of the United States in foreign markets; secondly, by lowering at home the price of many articles of comfort or necessity, imported from abroad.

15. That the safest and most satisfactory mode of regulating foreign commerce on these principles would be by combining the action of the legislative and treaty-making powers, Congress fixing, by law or joint resolution, the articles on which duties may be abolished, and the Executive negotiating with foreign nations for the grant of equivalents.

16. That, to be in readiness to carry this system of regulating foreign commerce into effect at the extinction of the public debt, it will be necessary for Congress to designate the articles for the abolition of duty at the next stated session.

National Road in Ohio.

On motion of Mr. BURNET, the orders were postponed for the purpose of taking up the bill declaring the assent of Congress to an act of the General Assembly of the State of Ohio.

Mr. BURNET said he would occupy but a few minutes of the time of the Senate in explaining the bill. Its object, he said, was nothing more than to give the consent of Congress to an act of the State of Ohio, for the preservation and repair of so much of the national road as lies within the limits of that State. That the law to which the assent of Congress was asked, provided for the collection of a moderate toll, to be expended in repairs. It also provided for the punishment of persons detected in the perpetration of malicious mischief injurious to the road. He said that it was generally understood and believed in Ohio, that the jurisdiction of this road was exclusively vested in the United States; that the General Assembly had no power to legislate on the subject without the consent of Congress. It was well known, he remarked, that the road would soon become entirely useless, if an arrangement were not made, without delay, for the purpose of keeping it in repair; that, as the road had been

constructed by Congress, at a great expense, it was unreasonable to rely on them for yearly appropriations of money from the national Treasury, to keep it in a state of preservation; that the road being once completed, ought to sustain itself without imposing a further burden on the national Treasury; that this description of internal improvement could not be carried to any great extent, if every new construction, when completed, was to be followed by a new annual charge on the Treasury of the nation. Such, he said, was the impression of the Legislature of Ohio, and on that view of the subject, and for the purposes already mentioned, they had passed the law recited in the bill under consideration. He thought it would be found, on a careful examination of the law, that its provisions were just and reasonable. The toll proposed to be charged was unusually low; much less than is commonly charged on other roads of a similar character—he was confident that it was less than a tenth of the value of the advantage to be derived by the persons who were to pay it. He disclaimed all idea, or desire, on the part of Ohio, to derive a revenue from this source. They did not contemplate such a result, nor did they wish it. If the road could be preserved without a tax on them, or on the General Government, they would prefer to have it remain as it is now, free and unencumbered with toll gates; but, said he, that is impossible; the road cannot be preserved without constant repairs, which necessarily require a constant supply of money. That Ohio contemplated nothing more than the preservation of the road, was evident from the fact that the whole amount of money collected was to be paid into the State Treasury—kept in a separate fund, and applied exclusively to the repair and preservation of the road, and that no more money was to be collected, than would be required for that purpose. Mr. B. said that care had been taken, in draughting the law, to secure the rights of the United States, as well as those of the separate States, by a provision that the mail should pass free; that all persons in the service or employ of the United States, or either of them, and all property belonging to the United States, or either of them, should be exempt from the payment of toll. Such being the character and object of the bill, he did not anticipate an objection that he believed could reasonably be urged against it. It did not, he said, affirm any principles or profess to settle any question of right; it was a naked declaration, on the part of Congress, of their willingness that Ohio should execute the law she had passed. He was aware that some members of Congress believed that the State possessed that power already, but many others were of a different opinion; and it was manifest that Ohio thought differently, otherwise she would not have passed the law in question. Be this as it may, said Mr. B., I feel confident that every Senator present, whatever may be his opinion on the delicate question of internal improvement, can vote for this bill without committing himself, on any principle connected with that question, because it involves no principle of that character. It will leave the questions of constitutional power and constitutional right where they now stand, to be adjusted and settled as would be the case had this law never been thought of. If, as he believed, the provisions of the bill were unobjectionable, on the score of principle, he was very certain they were calculated to secure a highly important object, as would be verified by the experiment, should the bill under consideration pass. It would prevent future applications to Congress for appropriations of money from the national Treasury to repair the road. As yet no such application had been made for the part of the road within the State of Ohio, because it had not become necessary; and he would venture an assurance that such an application should not be made if Congress passed this bill. Ohio would relieve the United States from the tax and the labor of preserving her portion of the road. With the means which this law would put in her power, she would guaranty the accomplishment of the object without further trouble to the United States, and certainly without further expense to their Treasury. He believed that the plan proposed by the State of Ohio was the best, if not the only one, by which the road could be kept in repair for any length of time, as it was evident that Congress would soon become weary of making yearly appropriations for that purpose; and that whenever these appropriations should be required, there being no substitute provided, the road would go to ruin, and the money already expended would be lost to the nation.

Mr. HAYNE said he was in favor of the object of the bill. He should be glad to see the principle carried out, and the United States wholly relieved from the care and preservation of this road. He thought, however, that the bill stopped short in one important particular, and that was, the cession of the road to the State of Ohio. He should like, if it could be done, to introduce a provision into the bill providing for its cession—it was a matter of importance, in his opinion—and it would release the United States from all future legislation on the subject. Should this course be pursued, next year Virginia, Maryland, Pennsylvania, and other States interested, would make a similar application to Congress, and, their wishes once granted, the United States would be relieved from an almost continual drain on their Treasury. The construction and preservation of this road was an unfortunate event for the country; the United States had been, and would be, from the necessity of things, subjected to more expense in works of this nature, than either individuals or States. Mr. H. spoke of the sums paid for the construction of the road, and the great expense required to keep it in repair. He would ask the Chairman of the Committee if such a provision as he

had suggested could not be introduced into the bill, and thus relieve the Government from any further appropriations.

Mr. POINDEXTER said that there were at least two objections to the bill as it now stood, unless the provision suggested by the gentleman from South Carolina should be incorporated into it. The first was, that it undertook to transfer to the Legislature of Ohio a right to erect toll gates, &c., with a view to the collection of revenue, to provide for keeping the road in repair—a power which the Congress of the United States did not itself possess. The matter had been more than once discussed in Congress, and bills providing for raising a revenue from tolls, for the repair of the road, had been rejected. If, then, Congress did not possess the power, could the right be transferred, by Congress, to the Legislature of the State of Ohio? In his opinion, it could only be done by ceding that part of the road lying within the State of Ohio to that State altogether, and thus give its Legislature a right to exercise the power now sought to be obtained. If the power were not given in this way, he could not see in what other way it could be done, when Congress did not possess the power itself. The second objection was, that, by the provisions of the bill, the justices of the peace in the State of Ohio were to exercise jurisdiction over offenders against the law, and to enforce its provisions. Certainly, said Mr. P., we cannot give this jurisdiction to those officers of the State of Ohio. The constitution provides, that "the judicial power of the United States shall be vested in one Supreme Court, and in such inferior courts as the Congress may, from time to time, ordain and establish." Can we travel out of the course laid down for us in the constitution, and give an authority to State officers to enforce our laws—give them a jurisdiction which we have no authority to do by the constitution? No, said Mr. P.; we have not the power to constitute these officers, *quoad hoc*, judicial officers of the United States. The course which he should prefer, and which should be pursued, was, to cede that part of the road to the State of Ohio, passing through her boundaries, and so on to other States, to the whole length of the road: for this was the worst Government in the world to have the management of the roads. He had thrown out these views for the consideration of the Senate, and he hoped honorable gentlemen would agree with him in the expediency of an entire session.

Mr. LIVINGSTON said that the gentleman from Mississippi, who had just taken his seat, mistook, a little, the provisions of the bill. It did not grant a power to erect toll gates, but simply gave the assent of Congress to the State of Ohio to do so. The road passed through the limits of the State, but was constructed by the United States. Many persons were of opinion that, because the road was made with the money of the United States, therefore it was the property of the United States—others were of opinion that the road was constructed in pursuance of the power possessed by the Government to make post roads; and on these two cases many disputes might arise. He was opposed to ceding the road to the States. Mr. L. remarked that it was the State of Ohio which gave the power referred to the justices of the peace, and not Congress; we, in sanctioning her law, simply assent that she shall have the power to give the jurisdiction to these officers expressed in the bill, and do not appoint them ourselves. Mr. L. made a reference to the inspection and other laws of the States, which were sanctioned by the United States Government, but were not laws of Congress. He wished similar provisions to those contained in the present bill could be extended to every State through which roads ran, constructed by the United States.

Mr. POINDEXTER thought he discovered, in the arguments of the Senator from Louisiana, a distinction without a difference. If the assent of Congress was necessary to give effect to a law of the State of Ohio, then we certainly transferred to her a power to do that which she could not do herself. If she had a right to exercise the power proposed to be given in this bill, without our consent, then the bill is useless; but if our assent is necessary, then our act is the only thing which gives a binding effect to the law of the State of Ohio. Where was the difference in our acting on subjects of this kind subsequently or anteriorly? In the present case, the Legislature had acted beforehand, and sent their law to us for our assent to its provisions. If we were to pass a law beforehand, giving them the power now sought to be obtained, and they saw proper to act upon the subject, would it not amount to the same thing? The justices of the peace in Ohio, he maintained, would, in this instance, act entirely dependent on our will; and, in granting them the power sought to be obtained, we were going beyond the provisions of the constitution.

Mr. LIVINGSTON said he would state the difference in the two cases, and it was the same difference which existed between a compromise and a suit at law. Might not, two parties being at variance, one offer a compromise for the settlement of their differences, and the other refuse, because he would say, if I do agree to a compromise, you will say that I admit you have the right on your side. As to the justices of the peace, when they came to act, it would not be by virtue of any law of Congress, but under the provisions of the law of Ohio.

Mr. FORSYTH said he could not vote for the bill in its present shape. He agreed with the gentleman from Mississippi in his views of the matter, and would cheerfully vote for a cession of the road, if the State of Ohio, or any other State concerned, was willing to take it. He was among those who believed that the United States could claim no jurisdiction over the

property. The State of Ohio asked of us a jurisdiction which we could not give, said Mr. F., because we had not the power. Cede the property to her, and she might exercise such legislation in relation to the road as she might see proper. He regretted that he could not vote for the bill; he had assigned his reasons why he could not. He was willing to surrender every section of the road to the States interested, if they would keep it in repair.

Mr. RUGGLES said, this was the third effort which had been made to prevent the road from going to ruin. There was no other method that could be pursued to accomplish the end in view. Bills for the preservation of the road had been before Congress on several occasions, but without success. One did pass the two Houses, but was rejected by the then President —Mr. Monroe. Other projects had been tried, but nothing finally done. The State did not contemplate deriving a revenue from the tolls collected; their only object was, to keep the road in repair, and to this purpose the funds would be applied. It would be to the benefit of the United States to assent to the act; and if, in the present case, the assent of Congress was obtained, the States of Virginia, Pennsylvania, Maryland, &c., would hereafter adopt similar measures. Some measure, to keep the road from dilapidation and ruin, should be speedily resorted to. It was the best road in the country; but, unless early attended to, must go to decay. He thought the bill prescribed the best course that could be adopted, and hoped it would pass. Ohio did not ask for or want the road; she simply wished the power to preserve it from destruction.

Mr. BURNET said, there was one point of view, in which the subject might be presented, which he thought would remove the difficulty under which the Senator from Mississippi seemed to labor. The national road, he said, had given rise to questions of doubtful or disputed jurisdiction. Many persons of information and legal talents were of opinion that the jurisdiction vested in the State through which the road passed; others, equally well informed and of equal legal talents, were of a different opinion; they thought the jurisdiction was in Congress, and in this state of things the road was fast going to ruin. For the purpose of obviating the effects of this collision of opinion, without meeting the contested question, the Legislature of Ohio, he said, has passed a law, exercising a jurisdiction in part, with a proviso that it should not be carried into effect without the consent of Congress. The whole amount of the matter then was, that the contending parties, by this bill, consented that Ohio should take charge of the road, for the purpose of preserving it, leaving the question of right as it heretofore stood—unsettled and undecided. The Senator from Mississippi had certainly misapprehended the bill; he had considered the language of the Legislature as being the language of Congress, by supposing that the latter was about to vest jurisdiction by this bill in the officers and courts of the State, when, in fact, it was the enactment of Ohio which gave the jurisdiction, and when Congress were required to do nothing more than express their approbation of the course pursued by that State—all the power to be exercised by those courts and officers would be derived from the State, by an express enactment, in which the United States were neither named nor referred to as having any agency in the matter. If a State, said he, by statute, gave jurisdiction to her own tribunals and officers, Congress, by expressing its approbation of the measure, will not become the grantor of that jurisdiction; it would still be an authority derived exclusively from the State.

The question was then put on ordering the bill to be engrossed for a third reading, and determined in the affirmative.

Punishment for Duelling.

Mr. LIVINGSTON submitted the following resolution:

Resolved, That a Select Committee be appointed to examine and report whether any legislative provision is expedient, in order to prevent and punish the practice of duelling in the District of Columbia, and that they have leave to report by bill or otherwise.

In offering this resolution, Mr. L. remarked, that when the bill from the other House, for the punishment of crimes in the District of Columbia, was under consideration, some exception was made to that clause which related to the punishment for duelling. Not to hazard that bill, the clause had been stricken out, with a view to come at the subject by the appointment of a committee to prepare and report a special bill relative to duelling. With this view he had offered the resolution, and he doubted not that a bill might be reported in time to be acted on at the present session.

The resolution was then agreed to, and Messrs. LIVINGSTON, HAYNE, and CLAYTON were appointed the committee.

Turkish Commission—Power of the President to Originate Missions.

The Senate then resumed the consideration of the amendments to the appropriation bill, the question being on the motions of Messrs. TAZEWELL and KANE.

Mr. FORSYTH said he was in favor of the amendment proposed by the Senator from Illinois, (Mr. KANE.) He was satisfied of its strict propriety, by his recollection of what occurred in the House of Representatives in the year 1818, when he occupied in the House the position now occupied in the Senate by the Senator from Virginia, (Mr. TAZEWELL,) who first opened the discussion. Mr. Monroe had appointed three distinguished citizens commissioners to go to Spanish America, to examine into the political condition of the States struggling to maintain their independence. He had prom-

ised them salaries at the rate of $6,000 per annum each, and had given them a secretary with a salary of 2,000 or 3,000 dollars. These gentlemen had all been appointed during the recess of the Senate, and were not nominated at the ensuing session. They had left the United States on their mission before Congress met. Their mission was one of the topics of the Executive message at the opening of Congress. The appropriation bill of that year was reported with a clause making a specific appropriation for the payment of these commissioners and their secretary. The Speaker of the House, Mr. Clay, who was just beginning to display symptoms of hostility to the administration, inquired into the authority for making those appointments—doubted the propriety, and condemned the expediency of them. After a consultation with that distinguished statesman, the late Mr. Lowndes, the purity of whose character, the soundness of whose judgment, whose honorable ambition, with not enough of the alloy of selfishness in it to make it current in the world's traffic, gave to his opinions, while he lived, the most imposing weight. Mr. F. proposed to strike from the appropriation bill the specific appropriation, and to add the amount required for the payment of the commissioners to the sum set apart as the contingent fund for foreign intercourse. The amendment was adopted without a division, and proved acceptable to the Senate. The object was to throw the expenditure upon that fund which was intrusted to the absolute discretion of the President, to prevent any inferences unfavorable to the controlling power of the Senate in confirming appointments, and of the House in creating offices. The confidential agents appointed to negotiate a treaty with Turkey have been appointed under the same authority that was exercised in 1818 by Mr. Monroe. If there was any difference in principle, the difference was in favor of the present administration. The commissioners to Spanish America were public political agents with fixed salaries, protected by the flag of the United States in their voyage, and by the commissions from the Secretary of State, bearing letters to the Governments they were sent to visit, and entitled to respect in their known public political character from all civilized nations. The agents to Turkey were secret agents, without salaries, authorized to make a treaty of commerce, if practicable, without letters of credence to any power, and entitled to no peculiar protection except from the Turkish Government, with whose officers it was necessary for them to confer, to ascertain the practicability of effecting the object in view. There certainly was no course of reasoning that would make Messrs. Rhind, Offley, and Biddle in the recent, and Messrs. Offley and Crane in the former, effort to negotiate secretly with Turkey, officers of Government, whose appointments ought to be provided for by law, or subject to the controlling power of the Senate, that would not more strongly apply to the case of the commissioners, Bland, Rodney, and Graham, and their secretary, Brackenridge, who were sent to the South American States by Mr. Monroe.

Mr. F. said he had hoped that the proposed amendment of the Senator from Illinois would have met the approbation of the Senator from Virginia, (Mr. TAZEWELL,) as he professed a perfect readiness to pay liberally for the services rendered, if no inference against the power of the Senate could be drawn from it. He contends, however, that such an inference will be justifiable, if the payment is not made on the personal application of the persons who rendered the service, by a bill specially reported for their relief, and originating in the House of Representatives. Mr. F. did not agree with the Senator on this point. All that could be legitimately inferred from the proposed increase of the contingent fund was, that Congress decided that the commissioners should be remunerated for services rendered in Turkey. The amendment proposed by the other Senator from Virginia (Mr. TYLER) appeared to be, therefore, unnecessary to the protection of the Senate, and objectionable; as, with the ostensible purpose of extracting a conclusion not liable to be drawn, it gave occasion to one, unjustifiable in itself, reflecting upon the present Administration, and the present Administration only. Mr. F., while he believed the present discussion neither called for, nor in place, was not unwilling to express his opinions on the question suggested by the Senators from Virginia, or those really involved in the appropriation for the payment of the Turkish commissioners. He coincided in opinion with the Senator on his right, (Mr. TAZEWELL,) that, since the establishment of the Federal Government, the Executive had gained upon the legislative branches of the Government, had encroached upon the authority of the Senate; and whenever any Senator presented himself to restore the true principles of the constitution—to vindicate the powers of the Senate, Mr. F. would afford his hearty support, without stopping to inquire over whose prostrate fortunes it was necessary to march, in effecting that great object. In the important business of foreign intercourse, it appeared to him that the framers of the constitution intended that every negotiation, from its inception to its consummation, should be made known to, and, to a certain extent, be under the control of, the Senate. In the first years of the Government such seemed to have been the practice. General Washington frequently presented to this body such questions as these: Shall a negotiation be opened with such a power? Shall instructions to this or that effect be given? Shall a treaty be formed, if the mutual stipulations indicated should be agreed on? In this practice General Washington did not persist. An event occurred in 1795, having no doubt some influence in justifying, in the minds of our Presidents, if it did not occasion, this change. A subject of

vast consequences was submitted to the decision of the Senate in secret executive session, under the most sacred obligation not to be disclosed by any Senator. No sooner had the Senate adjourned, than the whole matter was spread before the public by a Senator from Virginia, (Mr. Mason.) The whole country was thrown into confusion; warm, animated, angry discussion followed, and all the services, and virtues, and character of Washington were insufficient to save him from the censure and reproach of a part of the country. Mr. F. did not censure that disclosure; those to whom the Senator was responsible applauded the act; he would not question their decision.

It was soon found, as the Government moved on, that if a desire was felt that any subject should be bruited about in every corner of the United States, should become the topic of universal discussion, nothing more was necessary than to close the doors of the Senate chamber, and make it the object of secret, confidential deliberation. Our own experience shows that, in this respect, there has been no improvement; the art of keeping State secrets is no better understood now than it formerly was. Yet, with these facts before the public, the honorable Senator from Virginia, nearest to him, (Mr. TYLER,) asserts that the Senate is a perfectly safe depository for all the secrets of our foreign diplomacy.

This change in the course of the Executive Department had been submitted to without censure or resistance. No individual Senator, even as far as Mr. F. was informed, had ever made an effort to drive the Executive into a full and frank disclosure of the mysteries of our foreign intercourse, or to sustain a claim to control, by senatorial advice, the character and exent of the instructions given to our foreign Ministers or agents. Thinking, as Mr. F. did, that the constitution intended the Senate should be previously consulted on all points of foreign negotiation, he was yet compelled to admit that the usage of the Government had been uniformly inconsistent with that opinion. Upon the question of appointments to new foreign missions in the recess of the Senate, on which the gentleman from Virginia on his right (Mr. TAZEWELL) had dwelt with so much zeal and earnestness—the right of the President to originate new missions during the recess of the Senate, although exercised in many cases, and asserted on a recent occasion by the late President, had not been resisted by the Senate. Individual Senators had condemned, and had asked the Senate to join in the censure of such acts and pretensions; but the Senate had, on every occasion, evaded a decision.

Both the great parties into which the people were supposed to be divided, had united in the expediency of avoiding collision with the President on this question of power.

The motions of Mr. Gore, censuring the appointment by Mr. Madison during the recess of the Senate, of Messrs. Gallatin, Bayard, &c., to treat under the Russian mediation, were laid on the table by the republican votes of the Senate. The motion of the present Secretary of the Navy, (Mr. Branch,) condemning the pretensions of Mr. Adams, that he, as President, was competent to appoint Ministers to the Congress of Panama, was laid on the table by the vote of the friends of the late Administration. So far as a judgment was to be formed of the opinion of the Senate, any President had a right to conclude, whatever may be the opinion of his cabinet, or of some of his distinguished friends in either or both Houses of Congress, that his power to make appointments to new missions during the recess of this body was admitted by the Senate itself. Mr. F. did not impute the failure on the part of the Senate to assert its constitutional rights, to party considerations alone; although it had unfortunately happened that these questions were always stirred in high party times, and pressed with a view to party effect; the subject was one of difficulty; and whenever it is canvassed as it ought to be, with a single eye to the relative constitutional power of the President and Senate, it would be found that a decision either in favor of or against the power of the President alone to appoint to new missions, would be attended with serious danger to the public interest. He was prepared, whenever, in executive session, it was proposed unconnected with party strife, for the expression by the Senate of a fixed opinion; and to adhere to that opinion in all future intercourse with the Chief Magistrate.

Apart from these questions, the experience of the confederation having shown the necessity of secret confidential agencies in foreign countries, very early in the progress of the Federal Government, a fund was set apart to be expended at the discretion of the President of the United States on his responsibility only, called the contingent fund of foreign intercourse. The gentleman from Virginia on his right (Mr. TAZEWELL) supposed that this fund was for the payment of spies in foreign countries, who might be imprisoned or hung, if detected, with his free will, as the United States were not bound to protect them. This would depend upon their character; if American citizens, they would be entitled to protection; and that protection should, at every hazard, be afforded; but this term spy, to which the gentleman chooses to confine the use of this contingent fund, will not answer his purpose. Foreign Ministers are defined to be privileged spies, sent abroad to lie for the benefit of their country, (the last part of this definition Mr. F. hoped was not always accurate.) If the President can, on the strength of this contingent fund, appoint spies, he can appoint the privileged spies. But on what ground does the gentleman narrow down the use of this contingent fund? It was given for all purposes to which a secret service fund should or could be applied for the public benefit. For spies, if the gentle-

man pleases; for persons sent publicly and secretly to search for important information, political or commercial; for agents to carry confidential instructions, written or verbal, to our foreign Ministers, in negotiations where secrecy was the element of success; for agents to feel the pulse of foreign Governments, to ascertain if treaties, commercial or political, could be formed with them, and with power to form them, if practicable. Such uses have been frequently made of this fund: indeed, the propriety of thus using it is now, for the first time, doubted. Why is it publicly discussed? Mr. F. could not probably speak of what the executive journal did, but he was authorized to say what it did not contain. The Senate had not censured or doubted the propriety of the appointment of the agents to make a treaty with Turkey. No committee of that body, no individual Senator had proposed to the Senate to express any opinion on the subject. But, on this petty appropriation, the grave constitutional question is stirred here by both Senators from Virginia—the one (Mr. TAZEWELL) from despair; the other, (Mr. TYLER,) because an attack ought to be openly made.

To the first Senator, Mr. F. would suggest that patriotism should never despair of the republic; and that the people might possibly remind him that he should not invoke Hercules until he put his own shoulder to the wheel. The other Senator discloses the purpose of his movement; it is an attack. Certainly the place is well chosen, and the attack is in the nick of time. Mr. F. thought the executive session was the true place to vindicate the rights of the Senate in its intercourse with the Chief Magistrate—that the judgment of the Senate ought to be distinctly expressed, not left to obscure inferences from omissions or expressions in appropriation acts—these were proper in the House of Representatives, which could only through appropriations check the irregular or dangerous action of the Executive, but not in the Senate. Yet he admitted the propriety of taking any and every opportunity to give warning to the States and to the people. This being the avowed object, no allusion to the handwriting on the wall was necessary. The Administration was in the balance, and the people will decide whether it is or is not wanting in fidelity to its trust. Some remarks had been indulged in, on the manner of the Senators from Virginia in their discussion of this subject. Mr. F. was too much in the habit of speaking freely to find fault with it in others—indeed, he was always like Locksley, the Robinhood of Ivanhoe, ready to add his halo "whenever he saw a good shot or a gallant blow." If disposed to criticize he should find the opposite fault with both the Senators—they were far too courtly for the meridian of the United States. They had adopted and acted upon the maxim of courtly continental Europe, and of the palace of St. James. The Chief Magistrate can do no wrong—the Ministers are responsible—on them let the weight of public indignation fall; and one of the gentlemen (Mr. TAZEWELL) had gone so far as to express the sentiment, that he was willing to have the maxim universally acted upon, if the cabinet Ministers could be, as in England, brought to the block for giving unconstitutional advice to the President. Until the constitution changes, the Chief only is responsible for Executive acts; he may take the advice of his Secretaries if he thinks proper; but there is no obligation upon him either to take or to follow that advice; and if he does both, he does not escape the consequences—he is morally, constitutionally, and legally answerable for all Executive acts; and Mr. F. thanked God that whenever there should be use for the headsman's axe, there was no officer of this Government too high nor too low to escape its edge. The present Chief Magistrate asks not the introduction of this slavish doctrine—late discoveries show that he is not willing to assume the obligations of others, but he has never shrunk from his own. If there is one characteristic above all others peculiarly distinguishing the man, it is the fearlessness with which he throws himself upon responsibility; not with the reckless indifference of a profligate, but with the generous confidence of an honest mind. Surprised as Mr. F. was, at this unusual effort to strike over the President's shoulders at objects behind him, and sheltered by his constitutional shield, he was still more struck with the distinctions made in selecting points of attack. The Senator who led the assault (Mr. TAZEWELL) charged upon the four members of the cabinet, who had been formerly members of the Senate, upbraided them for the inconsistency of the conduct of the Executive with certain opinions recorded in the journals of the Senate during the Panama discussions; and with giving to the President advice to violate the constitution. The Secretaries of State, War, and Navy, and the Attorney-General, were condemned for having advised, or for not having prevented by their advice, a violation of that sacred instrument. Why is the Secretary of the Treasury excluded? He, too, is a constitutional adviser of the President, under the like obligations to give good council, and, by so doing, preventing violations of the laws and constitution of the country. On all the important questions arising out of the Panama mission, there was little difference of opinion among the then opposition party, of which the Secretary from Pennsylvania was a most active member; and, although not recorded here, his opinions stand upon record elsewhere on those questions. Why is he of Pennsylvania excused by the Senator, (Mr. TAZEWELL,) when he of New York, and he of Tennessee, and he of North Carolina, and he of Georgia, are condemned without scruple or mercy? Even this discrimination, singular as it is, is surpassed by that of the other gentleman from Virginia, (Mr. TYLER.) He, too, seems to have a favor-

ite in the cabinet, the Secretary of the Navy, (Branch,) whom he has anxiously sought to draw out of harm's way from the deadly range of the too hot fire of his colleague. Cannot our Navy stand fire? Now this Secretary (Branch) was the author of the resolutions brought up in judgment against the cabinet—the approbation of the other three Secretaries is inferred from their vote against the motion to lay them on the table—an inference, every Senator knows is not always correct. Yet the author is to be excused, the inferred approvers condemned. It cannot be supposed that the Secretary of the Navy was ignorant of this secret negotiation with Turkey. By the facts communicated to the Senate, he is the only one, besides the Secretary of State, who certainly was informed of it. The expenses of the agency were advanced by the Navy Department, and repaid out of the contingent fund of foreign intercourse.

The commander of the Mediterranean squadron was one of the commissioners, and had instructions from the Navy Department, about the funds to be used in the negotiation and the movements of his ships, to facilitate its success. Yet, although he did know, and it is uncertain whether two other members of the cabinet did or did not know any thing about it, he is not only carefully moved out of the way of reproach, but is made the subject of a special eulogium. He from North Carolina is the true republican of the old democratic principles. He is a star who never suffered dim eclipse, nor shed disastrous twilight over half the nations; nor, Mr. F. would add, with fear of change, perplexed monarchs—and Mr. F. would say further, if disposed to indulge in a prophetic spirit, that the honorable Secretary never would. No disparagement to the worthy gentleman was intended; the poetry and the prophecy might be applied to all, and to any of his associates. Those who were disposed to speculate curiously into the circumstances of the hour, might investigate the causes of these strange discriminations. You and I, Mr. President, said Mr. F., adopting the habit of our New England brethren, might make shrewd guesses at the true causes; but whether our guesses would fly at random, or directly to the mark, is not at present of much importance—now, it is necessary only to mark the fact that the discrimination is made. Leaving the favored pair to rejoice, the one at his perfect, and the other at his partial immunity, and the unfortunate triumvirate to repine at their fate, and bear, with all the grace in their power, the galling fire of Virginia's wrath, Mr. F. would proceed to consider the attack as if made upon the only responsible officer, the President of the United States. He was charged with lawless acts, with the first violation of an important provision of the Constitution of the United States, with a usurpation, into his own hands, of a power confided to him conjointly with the Senate.

The Senator from Virginia who first spoke on the subject, (Mr. TAZEWELL,) denied the correctness of the distinction between agents and officers of the Government. The distinction might not be sound; but one thing was certain, that it had always been made, and always had been and was now acted upon. Every head of a department occasionally employs and pays agents in the execution of the duties of his office, on the strength of the contingent fund submitted to his disbursement. We have consuls appointed under the constitution, by and with the advice and consent of the Senate: commercial agents selected by the President with consular powers, about whose appointment the advice and consent of the Senate are never asked. We have agents or commissioners to make contracts, treaties they are called, with Indian tribes. These appointments were in the first days of the Government submitted to the Senate, but were soon made at the discretion of the President or his Secretary of War, without even the ceremony of stating to the Senate that they had been made. We have foreign Ministers and chargés d'affaires appointed, by and with the advice and consent of the Senate; and agencies committed to the Secretary of State to make treaties while the Senate is sitting, and secret agents to make treaties abroad; and in neither case is the Senate informed of the power given until it is executed, the treaty being signed by the empowered agents.

If these acts are lawless—if these are violations of the constitution, encroachments on the powers of the Senate, the remedy should come from Virginia, for Virginia was the author of the evil. If the constitution lies suffering under festering wounds, the blows were struck by her steel, and it is her duty to apply the sovereign balm—the rust of the weapon heals the wounds it has made. The first stab was given by the parental hand of Washington. Jefferson, and Madison, and Monroe, have each, in turn, struck deep into the vitals of the victim. Ay, sir, if her Senators are right in principle, they can point to as many gashes in the constitution, as Antony bared to the view of the Roman people on the mangled body of their dead Cæsar.

Mr. F. would not fatigue the Senate by bringing again into view all the examples of appointments like those of the commissioners to Turkey. He would touch only two or three of the most striking; some of the prominent circumstances of which had escaped the attention of the gentleman from Louisiana, (Mr. LIVINGSTON.)

On the 30th of March, 1795, David Humphreys, Minister of the United States to Portugal, was appointed by General Washington, during the recess of the Senate, a commissioner to conclude a treaty of amity and commerce with Algiers. He negotiated a treaty, by his deputy, J. Donaldson, jr., in September, 1795, but signed it himself at Lisbon, on the 28th of November, 1795. This treaty was negotiated under a full power, bearing the sign manual of the President, and the broad seal of the United

States. It was submitted to the Senate in February, 1796, and ratified on the 2d of March, 1796, by a vote of twenty-three to two. No nomination of Mr. Humphreys was made to the Senate. The tenth session of the Senate, an extra session called by President Washington, began on the 8th, and closed on the 26th of June, 1795. Here there was a confidential commissioner appointed under a full power, during the recess of the Senate, not nominated to the Senate at its succeeding session, and about whose movements nothing was known until late in the second session after his appointment; when this power having been successfully executed by the formation of a treaty, that treaty was submitted for approval, and ratified almost unanimously, without a whisper of disapprobation on the course pursued by General Washington, or a doubt as to his right to the exclusive power exercised by him.

A like commission was given to Mr. Humphreys at the same time, 30th March, 1795, to make a treaty of amity and commerce with Tripoli. Joel Barlow was substituted the 10th of February, 1796; a treaty was negotiated on the 4th of January, 1797, and laid before the Senate on the 26th of May, 1797. Two sessions of Congress intervened, and three sessions of the Senate, between the appointment of the commissioner and the submission of the treaty to the Senate, during all of which General Washington was President. Mr. Adams submitted the treaty for ratification during the third session of Congress succeeding the appointment of the commissioner. No nomination was ever made, and the conduct of the Executive in both cases was approved. Mr. F. would not say that what had been done in those days was right, because it was done by the great model for statesmen and citizens; but he would say that the President could not be justly charged with now, for the first time, violating the constitution, when he had taken such examples for his guide, and squared his conduct by the rule of Washington. Mr. F. would not press the subsequent appointments made by the succeeding Presidents from Virginia, as all had been alluded to, except the remarkable one made by Mr. Madison in 1816. William Shaler and Isaac Chauncey were appointed on the 24th of August of that year, commissioners to alter the treaty then recently made with Algiers by Shaler and Decatur, under a commission to them and Captain Bainbridge. This alteration was made by treaty on the 23d of December, 1816, and ratified during Mr. Monroe's administration, 1st of February, 1822: yeas, 42—nays, none. Mr. F. had both commissions in his hands; they were full powers under the sign manual of the President and broad seal of the United States, in all respects like the powers granted to Biddle, Offley, and Rhind. In these instances, also, the Virginia President did not ask the advice and consent of the Senate, and escaped, like his great predecessors, all censure and remark. The honorable Senators, however, admit that all these things have been done, and, as they say, rightfully done; and their opinions against this Turkish negotiation rest upon the correctness of certain distinctions they have presented to the Senate. They admit that the former Presidents, beginning with General Washington, have, during the recess of the Senate, rightfully appointed commissioners to treat of peace and commerce with the Barbary Powers, whose names were not sent to the Senate at subsequent sessions. They admit that Messrs. Gallatin, Bayard, and Adams were rightfully appointed during the recess of the Senate to treat with Great Britain under the Russian mediation. They admit that the President has rightfully negotiated treaties in Washington during the recess of the Senate, and during the sessions of this body, without asking its advice and consent, by the instrumentality of the State; and, admitting all this, they accuse the President of the United States of disregarding the constitution, for having negotiated, through the instrumentality of secret agents, a commercial treaty with Turkey.

The honorable Senators unite in resting this apparent inconsistency of opinion on these grounds:

First. On the ground that all the previous appointments of this kind were made during war. A state of war, in their judgment, justifies during the recess the appointment of commissioners to make peace; but does it justify, also, the failure to ask a confirmation of the appointment of these commissioners at the succeeding session of the Senate? It was not so contended when Mr. Gore's resolutions were discussed. This resort to the war power is, however, certainly convenient, as carried to its legitimate extent; it renders any participation of the Senate in the business of re-establishing the regulations of peace altogether superfluous. It proves too much for the gentleman's purpose. It involves besides the truth of one of these propositions, to both of which Mr. F. expressly dissented: either that the sole power of the President over the foreign relations of the United States was enlarged, or the controlling power of the Senate over those relations diminished, by the state of war—propositions far more dangerous in their consequences than any that could arise from the practice of appointing secret confidential agents in negotiating treaties of commerce. Mr. F. did not believe that any gentleman would risk his reputation as a statesman, (if he might use the term without offence to the Senator behind him, (Mr. TYLER,) who had honored it with a peculiar sneer,) seriously contending that either was true; yet, he submitted with confidence to the judgment of the Senators, if one of them was not the inevitable result of the distinction taken by the gentleman from Virginia.

The facts in the cases referred to did not bear the gentlemen out, even if their distinction was just; all the appointments made, were not made during a state of war. Here, however,

a reliance is placed upon another ground, covering all the appointments made to treat with the powers on the Barbary coast. It was said they were Barbarian Powers, and not to be treated as civilized nations. Indeed! Barbarian Powers! Foreign Barbarian Powers, certainly not dependents on the United States. The treaties formed by the commissioners mentioned made the United States, for a time, their tributaries. As this was a grave constitutional question, to be tried by the language of the instrument itself, Mr. F. would ask, with due respect, why the gentleman travelled out of the instrument to look into the character of the foreign power with whom negotiation was directed by the President, and what degree of civilization in a foreign nation was necessary to bring the agents sent to them within the controlling power of the Senate. The honorable Senators did not as yet affirm that the treaties made with them were not beyond or below the Senator's orbit. But Mr. F. did not discover any reason for the participation of the Senate in the ratification of the treaty, which was not applicable to the appointment of the negotiators, if they were, as contended for by the gentlemen, officers in the technical language of the constitution. In their zeal to find them, they have struck upon distinctions much too broad for their purpose. Supposing the distinction sound, the distinction covers the Turkish negotiation, and upon their own doctrines the Administration stands justified. Take the Algerines, for example's sake: how do they differ from the Turks? The European would call the Algerines barbarians —so he does the Turks: the Algerines are not Christians, nor are the Turks; the Algerines are Mahometans, so are the Turks. In the event of a rupture, the Algerines imprison the consuls of the power with whom they are at war, reduce its subjects or citizens to slavery, and confiscate all the property belonging to the enemy's nation within their power—so do the Turks: on the principle of the *lex talionis*, the Algerines are not entitled to the benefits of the rules of honorable war—nor are the Turks. The gentleman from Virginia (Mr. TAZEWELL) says the Turks have been a formidable power before the American Government had existence —so have the Algerines, although their Dey is now kicked about with as little ceremony as a Cherokee chief. How long is it since Algiers has made the most formidable nations of Europe tremble? If antiquity of strength is of any importance in this discusion, the barbarians on the coast of Africa, so called while they were teaching Europe civilization, have been terrible for centuries. They foiled, in all the pride of his strength, the grandson of that monarch under whose patronage this continent was discovered. He who humbled France, was almost master of Europe, was himself reduced to extremity by these now despised Barbarians. Mr. F. was unable to discover any tangible distinction between the Mahometan Powers of Africa, and the Mahometan Powers of Europe and Asia. Turkey was distinguished from the others in the eyes of Europe, but that distinction was founded solely upon the geographical position of a part of the Sultan's dominions—a position that could not be important in the question before the Senate. Occupying an interesting and imposing position in Europe, the European Governments condescended to consider the Turkish Government as part of the European system. It was one of the make-weights in the balance of power—that chimera to which millions of lives had been sacrificed—which had enabled the wily diplomacy of artful despotism to stay for centuries the onward march of reason and liberty. In no other respects is there a distinction made between the Turks and other Mahometan Powers. War and peace, and treaties of commerce, are made with all, and with all the nations of the world regulate their intercourse as if they were Christian powers. Until the gentleman can find a stronger distinction than this, it must be admitted that the practice of former Administrations in their intercourse with the Barbarian Powers, covers the case of this secret negotiation with the Barbarian Turk.

The gentlemen had not been more fortunate in maintaining the other ground chosen by them. Pressed by the force of the precedents urged of treaties made without the Senate's knowledge, by the instrumentality of the Secretary of State, during the recess, and during sessions of this body; treaties of commerce, of indemnity, of claims due to and by the United States; for the settlement of disputed boundaries, and for cessions of extensive territory, the Senators urge that the negotiators acted in these cases as the agents of the President, by virtue of their commissions as Secretaries of State. What was there in the commission of the Scretary of State that made him, *ex officio*, a negotiator? What was there in the law creating this office that warranted this distinction? There was certainly nothing, either in the commission or act of Congress. There was a mistake made by the gentlemen destructive of their conclusion; they assumed as a fact what did not exist. The Secretaries of State, acting as the agents of the President, did not negotiate by virtue of their commissions as Secretaries of State—they were appointed by the Presidents, under their sign manual and the broad seal of the United States, for the special purpose of making the treaties formed by them severally; they had full powers, such as were granted to Biddle, Offley, and Rhind. There was no difference but this: the Secretaries in Washington, in the face of the Senate and of the nation, negotiated; the Turkish commissioners transacted their business in secret at Constantinople. What constitutional principle justifies the appointment of an agent here, the Senate sitting, publicly or privately, to form a treaty with a foreign power, that will not justify the appointment of a secret agent to form a treaty, if practicable, in London or Constantinople? The place where

the power granted is to be carried, cannot affect the right of the President to grant that power. Suppose the Turkish Government had sent a secret and confidential agent to Washington, and a treaty had been concluded with him by the Secretary of State, as the agent of the President, can it be reasonably pretended that the appointment of the Secretary as agent would not have been a constitutional exercise of power by the President, according to all past usage? If it would have been, casuistry itself could not condemn the appointment of the secret agents who had been sent to Constantinople.

Mr. F. believed the conduct of the President strictly correct, if it could be shown that the negotiation with Turkey ought to have been kept secret. The motives for a secret negotiation were to him obvious and satisfactory. The United States could have no desire for any political connection with Turkey; a commercial treaty had long been considered important, and it had always been deemed prudent to seek to establish commerical relations with that Government by informal secret agents. It has been thought that an informal agency would be more likely to succeed than a public Minister; the mission of a confidential informal agent would not create a belief that we were too anxious to succeed, while his secret negotiation would not be liable to be defeated by the influence of the great powers who were represented at Constantinople. It was apprehended that some of the European Governments, none of whom dislike to monoplize power and commerce, might not be pleased to see Jonathan's long sickle thrust into the golden harvests that grow on the borders of the Euxine, and might possibly use some little artifices to prevent it. There was some pride, too, in refraining from a public effort to make a treaty when success was so problematical, and with this pride was mingled no small portion of Yankee economy. A public mission to the Turkish Government, successful or unfortunate, was always expensive, and there was a wise determination not to expend the public money, if the object in view could not be accomplished. One of the Senators from Virginia (Mr. TYLER) had dwelt with strong emphasis upon the character Mr. Rhind gave himself in a letter to the Secretary of State. Suppose that the respectable and worthy man had, in the vanity of recent, and, as he honestly believed, important success, considered himself as a high diplomatic character, his view of it did not determine his character; and that could not, from the papers before the Senate, be mistaken. To the often repeated question, of how did these agents differ from the public Ministers, Mr. F. saw but one answer—they were not accredited by the heads of the foreign Government with whom they transacted business—they carried no letters credential, and were entitled to no privileges. It was not Mr. F.'s purpose, nor was it necessary for the vindication of the Administration, to sustain the propriety of this distinction between agents and Ministers; he had accomplished his object by proving that it had been early and constantly made, and by no Presidents more frequently than those who were given to us by Virginia.

The honorable Senator who led the way in this discussion, (Mr. TAZEWELL,) not satisfied with having charged the cabinet with a palpable violation of the constitution, seemed determined to make the impression that there had been an insidious design in the manner of asking for the appropriation to pay the Turkish commissioners. He imagined the Secretary of State wished to entrap the Senate into a sanction of the original appointment of these confidential agents. "The Secretary knew," the gentleman said, "at the beginning of the session of Congress, that this appropriation would be wanted. The Secretary asked it not of the House of Representatives, where the appropriations ought properly to originate; but, at this late day of the Senate, through their Committee of Finance." No desire to receive a sanction of the appointment of these commissioners could exist, after the treaty formed by them had been ratified, without the slightest intimation from the Senate that there had been any irregularity in the manner of appointing them. The history of the transaction is an ample refutation of this ungenerous charge. The Turkish treaty was not disposed of until the general appropriation bill had passed the House of Representatives; the appropriation for the payment of the service rendered could not be asked for until the question on that treaty was decided here; and when it was decided, the appropriation was requested where only it could properly be made. The assertion of the gentleman, that appropriation bills ought properly to originate in the House of Representatives, was not American in its character; it was borrowed from England. The House of Commons of the English Parliament asserts its right to originate all money bills; the House of Representatives of the Congress of the United States had no exclusive right to originate any bills but those for raising revenue; and recent circumstances were well calculated to raise a doubt of the propriety of that restriction upon the power of the Representatives of the States. Even revenue bills could be amended in the Senate, and the appropriation under discussion could be properly made if the English rule was to govern our practice. There was in this case a peculiar propriety in asking the appropriation of the Senate. When these commissioners were appointed by the President, he might have paid their services out of his contingent fund; but scrupulously desirous not to use the discretion over it vested in him, when it was not absolutely necessary, he directed the commissioners to be told, "your expenses shall be paid out of the contingent fund, and such compensation for your services as Congress may allow." Now, sir, to have asked this appropriation of the House of Representa-

tives in the first instance, would have been to apply to persons who had not, and cannot have, until the ratifications of the Turkish treaty are exchanged, the means of judging what sum ought to be paid for the service rendered. The Senate does know, and no doubt the House will so far rely upon our knowledge and discretion as to approve the sum that may be fixed upon here. The Executive is unfortunate, when his scrupulous anxiety to consult the representatives of the people, and of the States, in the expenditure of public money, gives birth to a charge of insidiously attempting to make the Senate connive at a violation of the constitution, and approve of his usurpation of their rightful power.

The services rendered by the commissioners had been slightly spoken of. Some supposed that a treaty with Turkey was of no consequence, since the treaty of Adrianople between Russia and Turkey had opened the channel into the Black Sea to all nations. It was true, that, by the stipulations of that treaty, the Turks bound themselves to Russia to admit all powers at peace with the Ottoman Porte into the Black Sea; and Russia was expressly authorized to consider a disregard of that stipulation as just cause of war. Still the treaty of Adrianople, dependent, as it is, upon the continuance of peace between Russia and Turkey, gave the United States no claim upon Turkey to a free passage through the canal of Constantinople: in fact, Americans who ventured into the golden horn were not permitted to pass through the Black Sea. No doubt the Government might have solicited from the Emperor of Russia his interference to secure the observance of the treaty made with him. His answer would certainly have been, I wish you to have a commerce with all my dominions; but at present I cannot prudently go to war to compel the Turks to fulfil this engagement. Whenever circumstances permit, I shall recollect and punish this disregard of the promises made to me. Was it not better to procure from the Ottoman Porte itself the right to a participation of the commerce of the Black Sea—a right which would be independent of the state of war or peace with Russia, than thus to have solicited the exertion of Russian power for our benefit? The treaty of Adrianople, without doubt, facilitated our success. That our object could not have been reached without a treaty, is certain. We know that, under the Turkish construction of the treaty of Adrianople, nations not having treaties with Turkey are not admitted into the Black Sea—that nations having commercial treaties, since the treaty of Adrianople, have sought admission under the protection of the promise to Russia, and that it has been refused; the answer made to both was, the engagement made with Russia does not alter our treaties with other powers. The honorable Senator from Virginia on his right (Mr. TAZEWELL) had spoken of the inconsiderable benefits likely to arise out of the commerce to the Turkish and Russian settlements on the Black Sea. There was no recent information on which a certain calculation could be made of the benefits that would probably result to the country from this negotiation. The commercial community would, as the most intelligent merchants believed, profit by it. The navigating interests certainly would, unless the owners of ships had lost their ancient skill and enterprise. In the present depressed condition of the navigating interest, perishing under the paralyzing influence of our internal policy, the Administration had done its duty in looking to our external policy for its relief. Mr. F. had, with some diligence, sought for accurate information. Although his labor had not been as well rewarded as he could have wished, he had yet collected some facts, gleaned from the history of past years, which would afford gentlemen the means of approaching the truth in making an estimate of the probable benefits of a free commerce into the Black Sea.

After being closed by the Turks upon all the world for near three hundred years, from 1476 to 1774, the passage of the Black Sea was opened to Russian vessels by treaty in 1774. On the 25th of June, 1802, by a treaty formed at Paris, the French flag was admitted into the Black Sea; and, shortly after, the liberty of navigating it was successfully demanded by, and yielded to, the other commercial European Powers.

In 1808, 815 vessels took in cargoes in the Russian ports of the Black Sea: 552 at Odessa, 210 at Taganrog, 23 at Caffa, 19 at Kosloo, 7 at Sevastopol, and 4 at Cherson. Of these, 421 were Austrian, 329 Russian, 18 Ragusan, 16 Ionian, 15 French, 7 English, 6 Idriots, and 3 Spanish.

In 1817, 1,925 vessels entered the port of Odessa alone: 480 Russian, 188 Austrian, 154 English, 43 French, 18 Spanish, 49 Swedish, 31 Sardinian, 65 Turkish, 7 Danish, 7 Neapolitan, 2 Sicilian, and 881 Russian, engaged in the coasting trade. In the same year, 400 entered the port of Taganrog. In 1808, there was an importation at Odessa of 33,131 bales of cotton. In 1817, the freight of a single article of commerce, wheat, shipped to Leghorn from the Black Sea, amounted to $1,350,000. All these facts related to the Russian dominions: when it was taken into view that the Turkish dominions on the borders of the Euxine included large cities, with a population exceeding 260,000 souls, standing on the borders of rich settlements, one of them, Trebisond, in the direct line of intercourse with the Persian Gulf, it might be fairly concluded that the owners of our ships would find, if true to themselves, profitable employment for their now almost useless property. The prospect of present advantage was nothing when compared to that which might be anticipated hereafter. The Black Sea had been, at more than one era, the heart of an active and lucrative industry. Prior to the establishment of the Ottoman

empire, its waves had been ploughed by the keels of all commercial nations. Its shores had been studded with populous and prosperous cities, and with productive settlements. Under the power of Russian despotism, which is operating as the genius of civilization in that portion of the globe, it is again becoming the centre of attraction to commercial enterprise. The Russian dominions, from the mouths of the Danube to the ports of St. Nicholas, south of the Phasis or Rione, are advancing in population and wealth with a rapidity unexampled in the history of the old world, and rivalled only by the almost incredible progress of our own country. Sanguine tempers might be deceived in their estimate of the benefits to the country to be derived now or hereafter from this successful effort at negotiation. Mr. F. believed the country would applaud those who had made it, should the hopes of profit be disappointed, realized, or exceeded.

Mr. SMITH, of Md., said he rose because he did not perceive that any other Senator was disposed to speak on the subject, and because he thought it his duty, as chairman, to sustain the amendment proposed to the appropriation bill by the Committee of Finance. What is that amendment? said Mr. S. Simply an appropriation to pay certain persons employed by the late President to negotiate with the Ottoman Porte, in which they had been nearly successful; and to pay certain other persons appointed by the present President, who had completely succeeded in making an excellent treaty with the Porte. Both commissions had similar powers and similar instructions. The treaty has been confirmed by the Senate; has been highly approved; and the question is, will you pay for the labor actually performed? An amendment has been offered by a Senator, (Mr. KANE,) to apply a sum fully adequate to the object in aid of the contingent fund, to enable the President to remunerate the parties in such manner as he may think proper. Either mode will be equally agreeable to me. All that the committee require is, that the persons employed shall be paid; and they are willing to adopt the amendment proposed, as they find that amendment most approved of by the Senate. It is proper, however, for me to state, that the committee had had before them both modes of remuneration, and, after consideration, proposed bringing the subject before the Senate in a substantive form, so that all who read might understand the object, and because they deemed it to be more consistent for Congress to designate what they meant to pay to each person, than to leave to the Executive discretion to allow what they pleased. The Senator from Georgia has shown a precedent in the case of Mr. Rodney, who, it was determined by Congress, should be paid from the contingent fund, and I acquiesced.

I little thought, Mr. President, that a constitutional question would or could have been raised upon a question to pay for services rendered; it has, however, and we must meet it as best we can. Early in my political life, I asked a friend whether it was true that "Rhode Island was without a written constitution;" he answered that "it was true;" that they did well under their charter from Charles; and he added, "that a written constitution was like a nose of wax, which could be moulded into a flat nose, a Roman, a Grecian, or pug nose, and in like manner an ingenious man might, he said, make the Constitution of the United States to mean something, nothing, any thing, or every thing." We have seen that it has been made to mean every thing, by the construction put on the words "general welfare;" and the very ingenious Senator from Virginia shows that he thinks it may be made to mean any thing. He contends, first, that the President has not power to send a Minister to a foreign court during the recess of the Senate, where no Minister had previously been sent; that it is a new office which he has not the power to create alone; and, secondly, that the President has not the power to send a commissioner in the recess of the Senate, as a secret agent to treat with a foreign nation, without nominating such agent to the Senate.

Those subjects have been ably, and, to my mind, satisfactorily discussed by the Senators from Louisiana and Georgia; nor would I enter on those subjects, if the Senator from Virginia had not, in a manner very pleasing to me, observed, that I had been consistent in my opinion of the constitution on the first point; evidently conveying the idea, by his manner, and by what he said, that I studied more the expediency of a measure, than the true meaning of the words of the constitution. It therefore made it incumbent on me to state my understanding of the points submitted by that Senator. We are all bound by our oaths "to support the Constitution of the United States." Each will, or ought to be governed by his conscience, and by his own judgment. I meddle not with those of that Senator, or any other; they are their own. I bottom the opinion I shall give on the powers vested in the President, in part, from never having heard the first doubted until the discussion on the Panama mission; and of the second, until this time. I consider both those powers as admitted. They may have been mooted. I will not say they have not. If they ever had been, it has totally escaped my recollection. My construction of the constitution is, "That Ministers to foreign nations, is an office created by the constitution, and not by law." The article says, "that the President shall have power to appoint ambassadors, and other public Ministers, by and with the advice and consent of the Senate." Again, he shall have power to fill up all vacancies that may happen during the recess of the Senate. I contend that the office of Minister is an original vacancy, and that it can be filled in the recess of the Senate, to any place that, in the mind of the President, a Minister may be required, by

the exigency of the case. If the Senate think that such an exigency does not exist, they can reject the nomination, which must be sent to it on the first session thereafter, and this is the power of the Senate; more than that they have not, and, in my opinion, that power is amply sufficient for the correction of any probable evil that might arise from such a power. I will state a case. We have never had a Minister to Austria. The President might, in my opinion, send, in the recess, a Minister to that court. He has, I think, the power under the constitution, and we have the power to reject. Am I alone in this opinion? No, sir, my learned friend from Louisiana holds the same. We were both fellow-laborers on the democratic side a long time past, and both agree that it had been a received opinion. Have I, Mr. President, no other authority? Yes, sir, that of the great apostle of the democratic party, Mr. Jefferson. He gave a practical illustration of his opinion; and, with all proper deference to the Senators of Virginia, I must think that he was as able an expounder of the constitution as those gentlemen. Mr. Madison was then the Secretary of State, and must have concurred in the act, which he did. We have all been in the habit of believing that he was an expounder of the constitution, in whom we might safely trust; and yet the Senator (Mr. TAZEWELL) has implicated Mr. Jefferson in his charge of a violation of the constitution, by his appointment, in a recess, of Mr. Short to Russia, where no Minister from the United States had been before. He did appoint Mr. Short to Russia. This amply proves that his opinion was, "that he had the power." Ay; but, says the Senator, "the Senate rejected the nomination, on the ground that the President had not the power." Admit it. Does that contradict what I have said? No, sir; Mr. Jefferson believed as I do, that he had the power, and he acted on it, which is the best possible proof. But did the Senate reject it, on the ground of its being a usurpation of power? Certainly not. I was then a Senator, and know that the rejection of Mr. Short was for causes and reasons entirely different. The question of power may have been incidentally mooted by some of our speakers. I will not trust to my memory to say that it was not. But this I can say, that, if animadverted on by any Senator, it has totally escaped my recollection. I think it would have made such an impression on my mind, that I should not have forgotten it. I repeat, that it was not on the question of power that Mr. Short had been rejected. The first time I heard that the power was doubted, was on the Panama question, when Mr. Gore's resolutions were read. Those resolutions were presented on the nomination of the commissioners sent in the recess, by Mr. Madison, to make a treaty of peace with Great Britain. I was not then a Senator. Party spirit ran high at that time; and we all know that those resolutions were calculated for party purposes, merely electioneering. What was their fate? Scouted by every democratic Senator as untenable, and by some of the federal Senators: I can name three. The two members from Rhode Island, and one from Delaware. And this is the only document that the Senator has produced to sustain his charge against Mr. Jefferson, for a violation of the constitution—a simple resolution presented—not acted on—and not sustained by the Senate. It died, I believe, a natural death. Against those resolutions, and the opinion of the Senator, I am supported by the opinion of Jefferson, Madison, my learned friend from Louisiana, and by the conduct of other Administrations, and the decision of the Senate on the Panama question. Let the people and my constituents judge which of us have produced the best authorities. But, on all constitutional questions, I am the sole judge for myself, I rest on my oath, and as my poor judgment directs.

The Senator has said, and truly said, that the constitution gives the same power to the President in the case of the appointment of judges, as it does in that of Ministers to foreign nations. I agree that the power is exactly similar in every respect. He then asks triumphantly, "will any man say that the President could appoint in the recess as many judges as he might think proper?" I answer, yes—if he had not been restrained by law. I will state a case. Suppose the Senate had risen without confirming the nominations of the first judges made by General Washington; there would have been presented the anomaly of laws, without judges to expound and administer them. The President is bound by the constitution to attend to the execution of the laws. Without judges that duty could not have been performed. The constitution created the office of judge, and, in my opinion, it would have been the duty of President Washington to appoint judges in the recess, to be nominated to the Senate, at their next session, for their approbation or rejection. Offices recognized by the constitution or the laws must be filled by the appointment of the President during the recess of the Senate, when the public good requires it; and the corrective of his exercise of this power lies in the Senate's power of rejecting. "But," said the same Senator, "we have now seven judges; can the President appoint an eighth in the recess of the Senate?" I answer, no: because the law has established the number, which he cannot exceed, and that number is seven. He could not appoint an eighth either in the recess or during the session of the Senate, until the law is altered, and an increase of the number authorized.

The Senator (Mr. TAZEWELL) has emphatically told us, not on his opinion, but positively, peremptorily, that "the President had committed a palpable violation of the constitution in sending commissioners in the recess to make a treaty with the Porte, without nominating them to the Senate, in derogation of the rights

of this body." This, Mr. President, is a grave charge against that high officer. What is the meaning of the word "palpable?" Johnson says that one of its meanings is "plain, easily perceptible." That is to say, so plain and easy to be understood, that he who reads must understand. Is it then so plain? It appears that the gentlemen from New Hampshire, Louisiana, North Carolina, and Georgia, do not find it so plain; they cannot, they have said, see any violation whatever, nor can I; nor has any of all our Presidents been able to see it. For, sir, in all but one of the Administrations the same act has been done. All the Presidents have, then, been violators of the constitution; the Senate also, for every Senate has sanctioned the violation. And now, for the first time, it is to be understood that it is a violation; and it is to be charged home on Andrew Jackson, as the only one who has committed the sacrilege. Is this fair, is it proper? When the Senator must have known that Gen. Jackson had pursued and acted upon the course of all his predecessors from Washington down, as well as on his own opinion. The President is the only responsible officer. It will not do to go behind him to attack the Secretary of State, (for I think it probable that he alone was consulted, and he alone was the adviser.) It will not do for the Senator to say that he, the President, knew little of the subject, and acted because he was ignorant, and therefore ought to be excused. No, sir; if he has done wrong, if he has palpably violated the sacred instrument that he has sworn to support, ignorance can be no plea; and this excuse for him is a more violent insult than any that could be offered; at least so I understand it. But, Mr. President, has there been any violation of the constitution? The Senators who have preceded me, think not, and I concur with them in opinion. Has any President ever submitted to the Senate the nomination of commissioners such as those under consideration? Never: I challenge those Senators to show one solitary instance. I do not confine my question to Mahometan but to Christian powers, which if they cannot, (and I know they cannot,) then how can the Senator (Mr. TAZEWELL) charge the President, General Jackson, with having committed "a flagrant usurpation of power, in flagrant derogation of the powers of the Senate?" How can the Senator from Virginia urge "that he may like the treason, therefore voted for the treaty, but detests the traitor."

Mr. President, rising so late in the debate, I have found all that I meant to say taken from me by the Senators from Louisiana and Georgia, and more ably certainly than I would have conveyed them. I may, however, be pardoned for following them, and perhaps repeating after them. It cannot be too often urged that General Jackson has pursued the precedent set him by all, or almost every one of his predecessors. The Senator from Louisiana has read to you a variety of instances of commissioners who had been sent by different Presidents, treaties made by them, and confirmed by the Senate without any nomination, and not a word lisped of its being unconstitutional: the Senate thus confirming the constitutionality of the power that had been exercised. The Senator from Georgia has produced others. One by General Washington in 1795. In that, the power under the great seal and the sign manual of the "Father of his Country," was given to Mr. Humphreys, then a consul or Minister resident (I know not which) at Lisbon, to make a treaty with the Emperor of Morocco. Mr. Humphreys transferred his power to Mr. Simpson, who made a treaty which became the law of the land. Was either Mr. Simpson or Mr. Humphreys ever nominated to the Senate? Never. Not a whimper of unconstitutionality. The Senate slept at their post, and now General Washington is found by the Senator from Virginia to be a palpable violator of the constitution. Again, Messrs. Rodney, Bland, and Graham were sent as commissioners to the South American States—Christian States. Were they ever nominated to the Senate? No, sir. The late President gave a commission to Mr. Offley and Commodore Crane, to treat with the Porte. Were they ever nominated to the Senate? No, sir. So that Mr. Adams was also a violator; Mr. Jefferson, Mr. Madison did the same. Mr. Monroe followed after, and acted in like manner. Where were the advisers of those gentlemen. Where the advisers of Mr. Monroe? For it is well known that he acted on full advisement of his cabinet. Where, I ask, were they all, that they did not prevent him from committing this presumed violence of the constitution? Were they all asleep at their posts? We must conclude that none of them considered it a violation of power.

The Senator from Virginia said that it would be a thing unheard of, unknown to the history of the world, "that a power at war should send a Minister to the power with which it was at war." Why, Mr. President, the Senator's reading and mine must have been very different. Mine says, that there is no event more common. I am now reading Sismondi's Italian Republics. The small States of Italy were in almost perpetual war with each other; and nothing more common than the sending Ministers from one city to the other to treat whilst war raged between them. But, sir, I will read some recent cases, some in which we had an interest:

"Preliminary articles of the treaty of peace between France and Great Britain, signed at Versailles, 20th January, 1783.

"The most Christian King and the King of Great Britain, wishing to put an end to the calamities of war, nominated to that effect, on the part of the former, the Count of Vergennes, and, of the latter, Alioyn Fitzherbert, Esq., minister plenipotentiary of his said Majesty the King of Great Britain, who, having communicated their full powers in the form, have agreed upon the following preliminaries:"

SECOND.—Preliminary articles of peace signed at London, 1st October, 1801, between Lord Hawkesbury and Louis William Otto. They communicated their full powers in due form, and then agreed upon the articles.

In 1797, Lord Malmesbury was sent to Lisle, a city of the French republic, as ambassador with full powers to conclude a peace.

In 1806, Lord Lauderdale was sent to Paris to negotiate a treaty of peace.

Permit me to submit another; a very strong one. Queen Anne wanted peace; the allies were not so disposed, and she sent a secret agent, Matthew Prior, I believe a poet. He was not suspected, for who would suppose that a poet would be sent on an object so important? He concluded the peace. It was then made public; and the Queen withdrew her troops from the allied army.

The late period of the session warns me that I ought not to occupy any more of your time, and I conclude with a hope that the discussion may now terminate.

Before I sit down, I will notice an observation made by the Senator, (Mr. TAZEWELL.) He significantly sneered at the employment of consuls and captains of our ships of war being clothed with plenipotentiary powers to make treaties. "Consuls!" said he, "What! are they superior to justices of the peace? Captains of the Navy with their commissions in their pockets," significantly. And yet, sir, consuls and captains have been so employed by the best of our Presidents. Washington empoyed Mr. Consul Humphreys, as has been shown. Jefferson employed Mr. Lear and Captain Preble to treat with Tripoli. Madison employed Consul Sheler and Captain Decatur to treat with Algiers. John Quincy Adams employed Captain Rodgers to sound the Turk, that he might know his disposition to make a treaty, and actually appointed Consul Offley and Captain Crane to make a treaty with the Porte; and General Jackson has employed Consuls Rhind and Offley, and Captain Biddle, to make a treaty. They have done so to the satisfaction of the Senator. And now, for the first time, is fault found that such persons have been employed. Why? Because General Jackson has so acted, sir. We all understand the cause, and so will the people. I have done.

The Vote and Amendment.

"For the outfit and salary of an envoy extraordinary and minister plenipotentiary; for the salaries of a secretary of legation, of a dragoman, and a student of languages, at Constantinople, and for the contingent expenses of the legation, seventy-four thousand dollars: that is to say, for the outfit of an envoy extraordinary and minister plenipotentiary, nine thousand dollars; for the salary of the same, nine thousand dollars; for salary of a secretary of legation, two thousand dollars; for the salary of a dragoman, two thousand five hundred dollars; for the salary of a student of languages, one thousand five hundred dollars; for the contingent expenses of the legation, fifty thousand dollars.

["For compensation to the commissioners employed in negotiating a treaty with the Sublime Porte:

"To Charles Rhind, an outfit of four thousand five hundred dollars, deducting therefrom whatever sum may have been paid to him for his personal expenses.

"To Charles Rhind, David Offley, and James Biddle, at the rate of four thousand five hundred dollars per annum for the time that each of them was engaged in the said negotiation.

"For compensation to the commissioners employed on a former occasion for a similar purpose:

"To William M. Crane and David Offley, at the rate of four thousand five hundred dollars per annum for the time that each of them was engaged in the said negotiation."]

Mr. TAZEWELL had moved to strike out all the foregoing included in brackets.

Mr. KANE's amendment was as follows:

Strike out all after the word "compensation," in the first line of the second paragraph above quoted, and insert "to the persons heretofore employed in our intercourse with the Sublime Porte, the further sum of fifteen thousand dollars, in addition to the sum of twenty-five thousand dollars appropriated for the contingent expenses of foreign intercourse."

This motion of Mr. KANE to strike out and insert having precedence of Mr. TAZEWELL's motion, the question was taken thereon, and decided in the affirmative, as follows:

YEAS.—Messrs. Barnard, Benton, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Iredell, Kane, King, McKinley, Poindexter, Robbins, Robinson, Sanford, Smith of Maryland, Smith of South Carolina, Troup, Woodbury—22.

NAYS.—Messrs. Barton, Bell, Bibb, Burnet, Chambers, Chase, Foot, Frelinghuysen, Johnston, Knight, Livingston, Marks, Naudain, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Tyler, Willey, Webster.—21

The question was then taken on the following proviso, moved by Mr. TYLER, to be added to Mr. KANE's amendment, viz:

"*Provided, always*, That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons by the President alone, during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

The proviso was agreed to by the following vote:

YEAS.—Messrs. Barnard, Barton, Bell, Burnet, Chambers, Ellis, Foot, Frelinghuysen, Hayne, Hendricks, Iredell, Johnston, King, Knight, Marks, Naudain, Poindexter, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Tyler, Webster, Willey—25.

NAYS.—Messrs. Benton, Bibb, Brown, Chase, Dickerson, Dudley, Forsyth, Grundy, Kane, Livingston, McKinley, Robbins, Robinson, Sanford, Smith of Maryland, Smith of South Carolina, Troup, Woodbury—18.

Mr. TAZEWELL then withdrew his motion to

strike out, and the united amendments of Messrs. KANE and TYLER consequently became a substitute for that part of the amendment reported by the Committee of Finance, providing for the compensation of the commissioners appointed to conclude the treaty.

Mr. WEBSTER then submitted the following amendment:

Strike out all that relates to the outfit and salary of a Minister plenipotentiary, &c., and insert—

"For the outfit and salary of a chargé d'affaires; for the salary of a dragoman, and a student of languages, at Constantinople, and for the contingent expenses of the legation, thirty-eight thousand dollars: that is to say, for the outfit of a chargé d'affaires, four thousand five hundred dollars; for the salary of the same, four thousand five hundred dollars; for the salary of a dragoman, two thousand five hundred dollars; for the salary of a student of languages, one thousand five hundred dollars; for the contingent expenses of the legation, twenty-five thousand dollars."

Mr. WEBSTER said that this subject had been presented to the Senate in a double aspect by the President of the United States—the choice appeared to be left to that body whether they would send a Minister plenipotentiary or a chargé d'affaires to the court of Constantinople; and the Committee of Finance had submitted an appropriation for the salary and outfit of the former. One of the letters read to the Senate, that from Mr. Offley, who certainly appeared to have had some experience on this subject, suggested the propriety of sending a chargé d'affaires, and in this opinion he (Mr. W.) most heartily concurred. Mr. W. spoke at some length in favor of his motion; said he could see no very great necessity for the mission—that he thought our relations with Turkey would continue pretty much in the same state as before—and that, for some time to come, our consul at Smyrna would be the most important agent of the United States in that quarter of the world. He spoke of the large salaries of the Ministers of foreign powers at the court of Constantinople; the great show and parade they made there, wholly for effect, and said that, if our Ministers complained of the incompetence of their salaries at the courts of the civilized powers of Europe, there certainly would be more cause of complaint at Constantinople. He would like to know whether the mission was to be continued; whether a similar call for salaries, &c., would be made next year; spoke of the large amount appropriated for contingencies; and asked if it was supposed that a Minister could support himself at a salary of $9,000 per annum. If a representative must be sent, he thought a chargé d'affaires would be competent to perform all the necessary duties; though, even if his amendment prevailed, his opinion was, that another mission in Europe should not be established. He was not in favor of an increase of missions—he would rather reduce some of those now existing.

Mr. KING said that the subject had been submitted to the Committee of Finance without any recommendation from the Executive; and, after consultation, that committee had come to the conclusion that it would be best to submit an appropriation for the salary of a Minister plenipotentiary. The salary would command the services of an individual who would be qualified to sustain the character and standing of the country, and enable him the better to keep up a suitable establishment. He was under the impression that it would not be necessary to keep a Minister at Constantinople for any great length of time. The contingencies of the mission would not be greater than at the court of any other power, except in the first instance; and this to comply with the usual custom there to make presents on the ratification of a treaty.

Mr. WOODBURY was in favor of the amendment submitted by Mr. WEBSTER.

Mr. FORSYTH also preferred the amendment; though he saw no necessity, he said, for political relations between this country and Turkey.

Mr. SMITH recapitulated the views of the Committee of Finance in providing for a Minister plenipotentiary, and said the Government did not intend keeping him there more than one year. The object was to send a Minister of the highest grade, in the first instance, whose duty it would be to exchange the ratifications of the treaty, and afterwards a chargé d'affaires would be amply sufficient. A Minister plenipotentiary, he remarked, had access to the Sultan; a chargé could not approach beyond the Grand Vizier.

The question was put on the amendment submitted by Mr. WEBSTER, and determined in the affirmative as follows:

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Brown, Burnet, Chambers, Chase, Clayton, Dickerson, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Hendricks, Holmes, Iredell, Johnston, Kane, Knight, McKinley, Marks, Naudain, Poindexter, Robbins, Robinson, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Troup, Tyler, Webster, Willey, Woodbury—37.

NAYS.—Messrs. Bibb, Dudley, Ellis, King, Livingston, Sanford, Smith of Maryland—7.

SATURDAY, February 26.

Laying Duties, and Regulating Commerce, two Distinct and Inconvertible Powers.

The resolution yesterday offered by Mr. BENTON relative to the foreign commerce of the United States, was taken up for consideration; when Mr. B. remarked that he had not submitted the resolution with a view to its being acted on at the present session, but that it might receive the early consideration of the Senate at

the next stated session of Congress. On his motion, it was laid on the table, and ordered to be printed.

The bill from the House of Representatives making appropriations for carrying on certain roads and works of internal improvement, and providing for surveys, was twice read, and referred.

National Road in Ohio.

The bill granting the assent of Congress to an act of the General Assembly of Ohio, for erecting toll gates, &c., and otherwise providing for the preservation and repair of the United States road within the limits of that State, was read the third time, and passed by a vote of twenty-nine to seven, as follows:

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Burnet, Chambers, Chase, Clayton, Dudley, Foot, Frelinghuysen, Hendricks, Holmes, Kane, Knight, McKinley, Marks, Naudain, Robbins, Robinson, Ruggles, Sanford, Seymour, Silsbee, Smith of Maryland, Webster, Willey, Woodbury—29.

NAYS.—Messrs. Brown, Ellis, Hayne, Iredell, Poindexter, Smith of South Carolina, Troup—7.

General Appropriation Bill—Expenses of the Government—Increase.

The Senate again resumed, as in Committee of the Whole, the bill making appropriations for the support of the Government for the year 1831—the question being on agreeing to the amendment of the Committee of Finance, as yesterday amended.

Mr. FOOT rose to make a few general remarks on the increasing expenditures of the Government.

Mr. F. said, we are indeed fallen on evil times. The application of the "searching operation," mentioned by General Jackson in his inaugural address, has become indispensable to save the Treasury from bankruptcy. The siren song of retrenchment, economy, and reform, has lost its fascinating charms. Broad and bold assertions will no longer be received as proof of economy, while the public documents prove them to be false; the people will no longer be deceived by these hackneyed terms, nor can the present Administration be screened from censure by charging their predecessors with "wasteful extravagance," when the documents furnish convincing proof that the present is the most extravagant Administration that has ever wielded the destinies of the nation. He called the attention of the Senate to the documents in proof of his assertion, and presented a statement taken from the printed reports from the departments, from which he gave the comparative expenditures between the two last years of Mr. Adams's Administration, and the two first of General Jackson's.

Appropriations in 1827, -	$11,315,568 95
" " 1828, -	12,326,482 59
Making -	$23,642,051 54
In the year 1829, - -	$11,766,524 59
" 1830, - -	14,844,090 66
Total in the two first years of General Jackson's economical Administration, - -	$26,610,615 34
Making an excess of expenditure in two years, above the expense in Mr. Adams's Administration, of - - - -	$2,968,563 80
And of this excess, nearly half in the civil list—	
Civil list, 1827, - - -	$1,718,837 04
" 1828, - - -	1,737,887 35
Making - -	$3,456,724 39
Civil list, 1829, $2,387,302 53	
" 1830, 2,352,461 81	
	$4,739,764 34
Making an excess in the civil list alone during the two first years of General Jackson's Administration, - - -	$1,283,039 95
The amount of appropriations contained in the bill for the support of Government for 1831, now under consideration, as passed by the House of Representatives, - -	$2,050,779 64
Proposed amendments by the Committee of Finance of the Senate, -	121,000 00
Making in the whole, - -	$2,171,779 64

This extraordinary increase of expenditure speaks a language not to be misunderstood. If any Senator doubts the fact, let him examine the printed documents, and he will find the statement correct—the statement before him was taken from those documents.

Do you ask, how can these things be? It is easily accounted for by the increased expenses in every department — by establishing new bureaus—by creating new offices—by increasing salaries and contingent expenses—by increasing the number of clerks—and by every other possible means for rewarding political partisans. Fifty-two additional pages in the Blue Book, of names of officers, will give some evidence of an increase in the number—the recalling of four Ministers, and some chargés d'affaires, will account for about $80,000 increased expense during the first year of this economical Administration—the office of Solicitor of the Treasury, created at the last session to perform a part of the duties of the Fifth Auditor, as agent for the Treasury, has called for an extra appropriation of near $10,000.

Sir, said Mr. F., we need the aid and faithful services of another "radical committee," as the Select Committee of 1820 has been called by the Chairman of the Committee of Finance, which he himself has acknowledged saved three

millions of dollars to the Treasury, to arrest the progress of the Government in its downward road to bankruptcy and ruin.

The amendment was then agreed to.

Various other amendments were made, and the bill having been got through in Committee of the Whole, the bill and amendments were reported to the Senate; and

The amendment adopted on the motion of Mr. WEBSTER coming up, Mr. SMITH, of Maryland, moved to strike out from the salary of a dragoman, $500; which was negatived.

Mr. HAYNE moved to strike out the provision for a student of languages; which was determined in the affirmative—yeas 29, nays 18.

The question was then put on the amendment of Mr. WEBSTER, as amended, and determined in the affirmative, as follows:

YEAS.—Messrs. Barnard, Barton, Bell, Benton, Brown, Burnet, Chambers, Chase, Clayton, Dudley, Ellis, Forsyth, Frelinghuysen, Grundy, Hayne, Hendricks, Holmes, Iredell, Johnston, Kane, King, Knight, Livingston, Marks, Naudain, Poindexter, Robbins, Robinson, Sanford, Seymour, Silsbee, Smith of Maryland, Smith of South Carolina, Sprague, Tazewell, Troup, Tyler, Webster, Woodbury—39.

NAYS.—Messrs. Bibb, Foot, McKinley, Ruggles —4.

Mr. BIBB moved to strike out the proviso, yesterday adopted on the motion of Mr. TYLER; but gave way for

Mr. KING, who moved to strike out all after the word "Provided," and insert a proviso more general in its nature, referring not only to the present and past Administration, but to all former Administrations.

After some conversation between Messrs. WOODBURY, WEBSTER, and HOLMES,

Mr. WEBSTER called for a division of the question, so as first to determine on striking out.

The question was negatived—yeas 19, nays 23.

Mr. KING now renewed a motion he had before made, to strike out from the proviso the words "by the President alone" and "a treaty;" but the motion was declared not to be in order, the Senate having just determined that it would not strike out any part after the word "Provided."

Mr. BIBB now renewed the motion to strike out the whole of the proviso, which, after an explanation by Mr. TYLER, of his object in offering it, disclaiming any intention of giving it a particular application to the President, was determined in the negative as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Chase, Dudley, Forsyth, Grundy, Kane, King, Livingston, McKinley, Robbins, Robinson, Smith of Maryland, Smith of South Carolina, Troup, Woodbury—17.

NAYS.—Messrs. Barnard, Barton, Bell, Burnet, Chambers, Clayton, Ellis, Foot, Frelinghuysen, Hayne, Hendricks, Holmes, Iredell, Johnston, Knight, Marks, Naudain, Poindexter, Ruggles, Seymour, Silsbee, Sprague, Tazewell, Tyler, Webster —25.

Mr. KANE's amendment was amended, by striking out the words "in addition to," and inserting the words, in aid of, and thus amended was agreed to.

So the sixth amendment was agreed to as follows:

"For the outfit and salary of a chargé d'affaires and a dragoman at Constantinople, and for the contingent expenses of the legation, $36,500: that is to say, for the outfit of a chargé d'affaires, $4,500; for the salary of the same, $4,500; for the salary of a dragoman, $2,500; for the contingent expenses of the legation, $25,000.

"For compensation to the persons heretofore employed in our intercourse with the Sublime Porte, the further sum of $15,000, in aid of the sum of $25,000, appropriated for the contingent expenses of foreign intercourse: *Provided, always*, That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons by the President alone; during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

The amendments were then ordered to be engrossed, and the bill to be read a third time; and then

The Senate adjourned.

MONDAY, February 28.

Death of Mr. Noble.

On the Senate being called to order—

Mr. HENDRICKS rose, and said, it becomes, Mr. President, my painful duty to announce to the Senate the death of my respected colleague. He departed this life on Saturday evening last, at ten o'clock. His services in this body have been faithful and uninterrupted for the last fifteen years. They have been honorable to himself, and useful to his country; but man goeth to his long home, and with him these services have terminated in the meridian of life. He had indeed lived to see his early associates in the business of this House retire to other spheres of life, or, like himself, pass silently into the grave; yet his friends might reasonably have hoped and expected for him a longer period of usefulness and distinction. On an occurrence like the present, and especially standing, as I do, in the midst of a circle so intimately acquainted with the deceased, it will not be expected of me to pronounce his eulogy; but I can speak, and I may be permitted to speak in the language of early and well-tried personal friendship of one highly prized, not only by himself, but by the State he has so long had the honor to represent, of an individual idolized by almost every circle in which he ever moved. He was a bold and fearless politician, warm and generous in his feelings. He had a heart that responded to every advance of sympathy and benevolence; a heart formed for the most ardent attachments. Open and undisguised, the prominent traits of his character were al-

ways before the world; but a long period of familiar acquaintance could only develop the ardor, the devotion, and the value of his friendship. For such an associate, it may well be permitted us to mourn, and well assured am I, that, in paying these last honors to his memory, we are but giving expression to the feelings of every member of the Senate. His society I have enjoyed when he was in health. In sickness I have frequently been near him, and endeavored to soothe his hours of anguish and distress; and I had an opportunity of watching with intense anxiety, and great solicitude, the last moments of his life.

Mr. BURNET then submitted the following resolution; which was agreed to:

Resolved, unanimously, That a committee be appointed to take order, for superintending the funeral of the Hon. JAMES NOBLE, deceased, which will take place at half-past eleven o'clock this day, and that the Senate will attend the same; and that notice of this event be given to the House of Representatives.

The Chair stated that, under the circumstances of the case, upon being yesterday informed of the death of the late Senator from Indiana, he had appointed a Committee of Arrangements, and pall bearers; and hoped the course he had pursued would not be disapproved of.

Mr. BURNET then submitted the following resolutions; which were adopted:

Resolved, unanimously, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. JAMES NOBLE, deceased, their late associate, will go into mourning for him for one month, by the usual mode of wearing crape round the left arm.

Resolved, unanimously, That, as an additional mark of respect for the memory of the Hon. JAMES NOBLE, the Senate do now adjourn.

[The body of the deceased was then brought into the chamber of the Senate, and placed in front of the Secretary's desk. Soon after which, the House of Representatives, preceded by their Speaker and Clerk, together with their Sergeant-at-Arms, entered the chamber, and were immediately followed by the President of the United States, the Heads of Departments, and the Judges of the Supreme Court, who respectively took the seats prepared for them. The Chaplain to the Senate (the Rev. Mr. Johns) then rose, and delivered an eloquent and very impressive address, which was followed by a fervent prayer by the Rev. Mr. Gurley, the Chaplain to the House. A procession was then formed, and proceeded to the Eastern Branch burial ground, where the remains of the deceased were solemnly interred.]

TUESDAY, March 1.

Duties on Iron.

Mr. DICKERSON moved that the Senate now proceed to consider the paper yesterday submitted by him as the views of the minority of the Select Committee on the subject of reducing the duties on iron.

Mr. HAYNE said he would be glad to know what course should be adopted respecting it when taken up—if it were intended to have it printed as an argument against the report of the Select Committee which he had presented, he wished to know if the gentleman would have any objection to his having an answer to that argument in like manner printed. The report of the committee—of the majority of the committee, had already been ordered to be printed, and the document of the gentleman from New Jersey, (Mr. DICKERSON,) which exhibited the views of the minority of that committee, could not now go with it unless an extra number of copies of the original report were ordered to be printed. To this he would have no objection, provided his answer or rejoinder to that argument went along with it. If the printing of the original report for the use of the Senate had not in the first place been refused—a course which had been well said by the Senator from Alabama (Mr. KING) was altogether unprecedented, and out of the regular mode adopted with every report of a committee, he (Mr. HAYNE) might not have thought of standing on his right. As it was, he conceived he had an equal right, if this practice of allowing individual members of a committee to print their arguments against a report were tolerated, to expect his rejoinder to that argument to be printed—and if the gentleman chose to reply to that, he (Mr. H.) would be prepared with a replication to that argument, and thus go on and ask for all to be printed for the use of the Senate.

Mr. DICKERSON replied that his sole object was to present the views of the minority of the committee on the subject. But he only presented it as the views of himself and another in their individual capacity, and as individuals they had a right to ask for those views to be printed. It was a right which they in common with others possessed; and was it not the case that the views of individuals respecting the subjects of memorials even were frequently printed? He would have no objection to the gentleman's rejoinder being printed, provided he was informed what it would be; but, before deciding, it would be but proper to know something respecting it.

Mr. SMITH, of Maryland, said, if this practice were sanctioned, it would put an end to all their former rules of proceeding; it was unparliamentary and quite unprecedented. It would now appear that we were to have a counter report—an answer to that, and thus he did not know where it was to have an end. The subject appeared to lead to debate; there were many bills from the other House which it was necessary to take up without loss of time, and he would therefore move that the paper be laid on the table.

Mr. HOLMES said, for his part he would have no objection to the plan which the gentleman

from South Carolina (Mr. HAYNE) had laid out for himself to pursue, if he (Mr. H.) were allowed also to adopt it, and to write during the recess, while time might hang heavy on his hands, a further replication to the gentleman's replication, and this too to be printed at the public expense. He had also, he confessed, like the honorable Senator, a penchant for making an occasional speech, and for seeing himself in print now and again; and he hoped, if this new system were to be adopted, that the privilege which he laid claim to, would also be extended to him.

Mr. CLAYTON suggested that the Senator from New Jersey (Mr. DICKERSON) might better accomplish his purpose, if the Committee on Manufactures, of which he was chairman, were to report on the same subject.

Mr. DICKERSON explained, and insisted on his right, from former precedents, that his paper, which exhibited a view of two individuals who had formed a minority of the committee, should be received; and said, if it were not intended to carry the matter *ad infinitum*, the Senate could say where it was to stop.

After some further remarks from Mr. HAYNE and Mr. KING, the question was taken on Mr. SMITH's motion to lay on the table, when it was negatived by a vote of 19 to 12.

Mr. HAYNE then moved, as an amendment to the original motion for the receiving of Mr. DICKERSON's report, which was still pending, that the views of the majority of the committee in replication to that paper be also printed.

The question on this last amendment being first taken, it was agreed to, and Mr. HAYNE handed in the replication accordingly.

Mr. WEBSTER said, that, in regard to a report from a minority of a committee, although, strictly speaking, there could be no such thing, as a committee was a regular appointed body and constituted a whole, still, although it might be irregular for the minority to report as such, in a case like the present, he thought they were entitled to give their views as individuals on the policy of a measure to which they had always been opposed, and which went to recommend a system to the country which was altogether new. He would therefore vote in favor of the document being received.

Mr. GRUNDY said he would vote against it, because he thought any other individual in the Senate had an equal right to offer his views on the subject, and have them printed.

The question was then taken on receiving the paper presented by Mr. DICKERSON, when the motion was carried by a vote of 19 to 18.

Mr. SMITH, of Maryland, moved that when the Senate adjourn to-day, it shall adjourn to meet to-morrow at ten o'clock. The motion was agreed to.

Insolvent Debtors of the United States.

The bill for the relief of certain insolvent debtors of the United States was then taken up, on motion of Mr. WEBSTER.

Mr. WEBSTER then said, the object of this important and long-desired measure was to enable the Government, in proper cases, and by a just and safe proceeding, to compromise with certain of its insolvent debtors. He looked on this object as equally politic and humane. The relation of debtor and creditor was a delicate one; many practical consequences ordinarily sprang from it; and it was not expedient that large numbers of persons should bear this relation to the Government, without the hope of ever changing it. It naturally cherished feelings not the most friendly, to the discharge of social and political duties. Hopeless debt, too, terminates the active agency and effective efforts of most of those who have become subject to it. Their exertions, their enterprise, their usefulness, are in a great measure lost to society. Few will struggle under a weight which they know, struggle as they may, can never be moved. Few will exert themselves, under the consciousness that the utmost exertion will never enable them to throw off or to break the chain which binds them, and to place themselves again in a condition to enter the employments, the business, and the engagements of society. It was wise, therefore, in his opinion, that every hopelessly insolvent debtor to Government should be able to ask inquiry into his case, and the causes of his inability, and to show his honesty and his misfortune, and then have the power of making his peace with his creditor; to have his *quietus*, in the language of the old law, and be encouraged, once more, to such efforts, and such services, as his social and domestic duties may require of him.

This being the general object of the bill, said Mr. W., it proceeds, in the first place, to distinguish clearly and broadly between mere debt and official delinquency. This distinction is founded, not only in true policy, but in correct morals also. Unpaid debt is one thing; violated trust very much another thing. Delinquency, or failure in the discharge of official duty, finds neither favor nor indulgence in any of the provisions of this bill. Principals in official bonds, and all persons who have received money to be paid into the Treasury, or who have received it from the Treasury, for public disbursement, are cut off from all its benefits. This is just. It is not unworthy of remark, however, that, in the history of our Government, the public has lost infinitely less by public debtors, than by public officers and servants. Six or seven hundred millions of dollars have been received into the Treasury, almost all by being first secured by bond, with only a loss of the half of one per cent. This fact speaks much, not only to the credit of a system, but also for the integrity and punctuality of the American mercantile character. No Government in the world, I believe, collects its revenues with more certainty, or more economy, than ours. But it must be confessed, that when we proceed to the next stage, and look into the disbursements made out of the Treasury for the

objects of Government, and to the degree of fidelity and correctness which has there prevailed, our experience has been far less gratifying. The selected servants of the Government have lost us thousands, where those whom the laws and the course of business have compelled to become our debtors at the custom-house, have hardly lost us a dollar. The mercantile character has richly earned this distinction. In all times it has shown itself worthy to be relied on; in all times, in prosperity and adversity, in peace and in war, amidst all the events that usually affect national income, or shock systems of finance, the Government has always felt that what was due to it from the commercial community was to be counted on as so much already in its coffers. Debtors of this class, becoming insolvent without imputation of fraud or dishonesty, have fair claims to a discharge. On the other hand, let the severity of the law continue towards public delinquency. Let those who solicit public trusts understand, once for all, that a rigorous rule will be applied; that a perfect accounting will be exacted; and that debts, created by disregarded duty, and a violated trust, is a fetter never to be broken.

The bill, sir, proposes a public and open proceeding, to ascertain the facts in each particular case. The insolvent debtor is to apply by petition, setting forth the facts of his case. The petition is to be referred to commissioners, who are to inquire into it, with power to examine the petitioner, and any other persons on oath, respecting the whole matter before them; and they are to be attended by an agent on the part of the Government, to interpose objections, and demand explanations of whatever may appear to require explanation. The facts thus ascertained are to be referred to the Secretary of the Treasury; and thereupon he is authorized to compound and compromise the debt, according to the circumstances, and discharge the debtor.

It might be expected, perhaps, that the bill would have provided that, in every case, if no fraud or unfairness appeared, and clear insolvency and inability to pay were made manifest, a discharge should be granted of course. But, from what was known in regard to some existing cases, it was thought better still to leave the Secretary some discretion. It is known that there are cases in which, by the contributions of friends and connections, or other means, considerable sums would have been paid if discharges could have been obtained; which cases, without such prospects of discharge, would be cases of great and total loss. So that one effect of this very measure will doubtless be, to cause receipts into the Treasury of considerable sums, on account of debts, no part of which, without it, would ever have been collected.

The next important characteristic of the bill is, that in its operation it is altogether retrospective. It is not a standing provision. It applies only to past cases. Its object is to settle up and close cases of insolvency, long since happening, and still existing; to make a sort of half century jubilee, and set all the honest and unfortunate once more free from the demands of Government debts.

We see that, in the individual concerns of commercial men, it is found indispensable that some system, having the actual effect of a system of bankruptcy, should be adopted. Congress does not seem disposed to exercise its undisputed power of establishing such a system for the whole country, by law; no State can establish such a system, except to a partial extent; and most of the States have not attempted to provide any at all. But voluntary assignments, and voluntary discharges, have come into very general use, from the absolute necessity of the case. Individuals thus establish rules of distribution of effects, and for the discharge from debts, for themselves. But Government has not the power which belongs thus to a private creditor. The Treasury cannot compromise or discharge the debt, in any case, without full payment. Under this act, as to past obligations, it will possess that power; and when its operation shall have been seen and tried by experience, it will be competent to Congress to repeat the provision, at a proper time hereafter, or not to repeat it, as its wisdom shall see fit.

As I do not anticipate any objection to the principle of the bill, I shall no longer press a claim on that time and that attention of the Senate, which are demanded by so many other urgent subjects. I wish, however, not to resume my seat before I express my sense of the obligation which the public is under to the distinguished gentleman in the other House, on whom it devolved, in the discharge of his duties there, to take the lead in this measure. I feel that he has rendered a substantial service to the country; that the bill which he has matured and supported through the House to which he belongs, will be a joyous relief, and a great blessing, to many honest and valuable citizens; and both useful and safe to the Government. I am happy in seconding here that which he has so well sustained elsewhere; and am desirous, for one, of expressing my thanks for his zealous devotion to this object, and his successful lead in its accomplishment.

The bill was then ordered to be read a third time.

Retiring of the Vice President.

The VICE PRESIDENT having stated that he should not again attend the meetings of the Senate at the present session, availed himself of this opportunity of wishing the Senators a very pleasant return to their homes.

The Senate then took a recess.

EVENING SESSION.

The VICE PRESIDENT having retired from the chair of presiding officer, the Senate proceeded to the election of a President *pro tem.*

The votes were, (first ballot:)

For Mr. Smith, of Maryland,	17
Mr. Bell, of New Hampshire,	12
Mr. Tazewell, of Virginia,	3
Scattering,	4

On a second balloting, there were

For Mr. Smith, of Maryland,	18
Mr. Tazewell,	9
Mr. Bell,	8
Scattering,	2

On a third balloting there were

For Mr. Smith, of Maryland,	15
Mr. Tazewell,	21
Scattering,	8

So Mr. TAZEWELL was elected President *pro tempore* of the Senate.

Whereupon, Mr. TAZEWELL rose, and with a profession of his sincere distrust of his ability to discharge the duties of the Chair with satisfaction to himself or to the Senate, begged to be excused from accepting the honorable station which the Senate had assigned to him.

Mr. WEBSTER expressed his hope that the honorable Senator from Virginia would reconsider his determination, and would not be excused from the duty to which the vote of the Senate had called him.

Mr. TYLER, expressing his high respect for his colleague, and declaring that he himself, with all the sincere respect which he had for his colleague, not expecting such a course, had voted for the venerable Senator from Maryland, and, desirous to pay due regard to the wishes of his colleague, moved that his colleague be excused from serving as President *pro tempore*.

The Secretary of the Senate having put the question on this motion, it was decided in the affirmative, by 20 votes to 14.

The Senate then proceeded to another balloting for President of this body; and it resulted as follows:

For Mr. Smith, of Maryland,	20
Mr. Bell, of New Hampshire,	11
Mr. Ruggles, of Ohio,	4
Mr. King, of Alabama,	4

So Mr. SMITH, of Maryland, was elected President *pro tempore* of the Senate; and, being conducted to the chair, made his acknowledgments for the honor which he said he was satisfied was paid rather to his age than to his ability, and said that the only return he could make, would be to devote his best ability to the proper despatch of the business before the Senate.

The Senate then proceeded to the despatch of a variety of business, of which the following was the most prominent:

The bill to carry into effect certain Indian treaties was read the second time, and, on motion of Mr. GRUNDY, it was amended by striking out the clause which provides for taking the sum appropriated for carrying into effect the Choctaw treaty, from the fund of $500,000 last year appropriated for the removal of the Southern Indians, and the expense of carrying into effect that treaty was ordered to be paid out of any money in the Treasury not otherwise appropriated. Thus amended, it was ordered to a third reading.

The amendments of the House to the amendments of the Senate to the general appropriation bill were all agreed to, with the exception of that which goes to strike out the clause inserted on the motions of Mr. KANE and Mr. TYLER, and inserting $15,000 for the services of the commissioners employed to conclude the treaty with the Sublime Porte.

A variety of motions were made on this subject, several points of order were discussed, and then some remarks were made on the constitutionality of the appointment of the commissioners. The effect that the amendment of the House would have, as preventing the Senate from expressing their disapprobation of the course of the Executive, was also spoken of, when, finally, the Senate refused to agree to the amendment, and appointed a Committee of Conference on its part, consisting of Messrs. TAZEWELL, WEBSTER, and KING, to meet conferees to be appointed by the House of Representatives.

The Senate then adjourned.

WEDNESDAY, March 2.

Claim of James Monroe.

Mr. HAYNE said he was about to make a motion—such a one as he seldom made, and to which he was in general opposed—a motion which would have been unnecessary, if the bill had been suffered to come up in its order, but which had been prevented by the many motions made by gentlemen to take up bills out of their order—and that was, to take up the bill for the relief of James Monroe.

The motion prevailed—yeas 25.

The motion to amend, heretofore submitted, to strike from the bill the words "for public services, losses, and sacrifices," was, on motion of Mr. HAYNE, disagreed to, to save time.

After a remark or two from Mr. FORSYTH and Mr. BELL,

Mr. LIVINGSTON said he would premise what he had to say on this subject by a declaration that he intended to vote for the bill. I am obliged, said he, in this case, as all of us must, for the most part, in cases of claims for services, or the settlement of accounts, to trust very much to the investigation made by our committees, and to the correctness of their reports. Were each member to investigate the details of the numerous cases that come before us, we should spend all our time in this examination, and then do the business imperfectly, leaving no time for attention to the great interests of the nation. In this case, a committee of the other House, that House itself, and our own committee, have informed us that Mr. Monroe has an equitable claim on the nation: and they propose that the amount of this claim shall be

settled by our accounting officers on equitable principles. I must believe, therefore, that something is due, and therefore will vote for the bill. But, sir, a private duty which I owe to the memory of a very near and very dear relative, a public duty to a statesman who had no inconsiderable share in the establishment of our independence, who was one of the committee which sanctioned the declaration that proclaimed it to the world, and whose subsequent life was a series of important services to his country: these duties oblige me to notice an attempt to deprive him of the credit of one of the most important of those services. Among the claims which Mr. Monroe urges to the gratitude of the country, is the acquisition of Louisiana to the Union. Forgetting the agency of his colleague, scarcely mentioning him, except only to say that he had the merit of agreeing with him, (Mr. M.,) he directly assumes the whole credit of the negotiation, by saying that nothing was done, or could be done, until his arrival; intimating clearly that it was his agency alone which produced the important result. I beg leave, sir, in order to test the justice of this pretension, to advert to the history of this transaction.

In the year 1801, Robert R. Livingston was sent by Mr. Jefferson as plenipotentiary to France. Important claims, the payment of which had been promised by the treaty of the preceding year, were yet unsatisfied; and the deranged finances of the republic rendered it very difficult for them to procure the means of discharging them. The first part of the year 1802 was spent by our Minister in unceasing but fruitless attempts to procure the justice due to our citizens. Other causes soon combined to give a more important turn to the negotiation. The suspension of the right of deposit at New Orleans excited a just and violent sensation in the western country. Its citizens could scarcely be restrained from marching down, and securing by force of arms the free navigation of the Mississippi, so essential to their commerce. About the same time, Mr. Ross, a Senator from Pennsylvania, made a formal proposal to authorize the President to take possession of New Orleans: a measure which it was thought more urgent, because, about this time, May, 1802, it was known in the United States that Spain had, in the preceding year, ceded Louisiana to France. And it was feared that if a war broke out again (which was apprehended, and shortly after happened) between that power and England, this last power would make a conquest of it, and thus enclose us on our whole frontier. Instructions were therefore sent to Mr. Livingston, to endeavor to purchase New Orleans and the Floridas for a price, of which the payment of the debt due to our citizens was to form a part. In obedience to these instructions, Mr. Livingston turned his whole attention to the accomplishment of this great object. While urging on the one hand the payment of the debt, on the other he was endeavoring to demonstrate the policy of making the cession to the United States, not only as the means of discharging the claims of our citizens, but as the only mode of preventing Great Britain from acquiring that valuable colony. In a memoir which he published in December, he not only insisted on these topics, but showed the advantage to France of encouraging the commerce and naval power of the United States, by the same act which would prevent the rapid accession to those of the rival of France.

In February, of the year 1803, finding that he could get no explicit answer from the Ministry of France, he took a step dictated by a close study of the character of the extraordinary man who as First Consul then directed the affairs of France. Quitting the established form of communication, he addressed a letter directly to the First Consul himself, appealing to his honor as a soldier, and personal sense of justice, for the performance of a treaty he himself had made. This bold proceeding had its effect. An answer was given, positively promising a prompt liquidation and payment of the claims. To give greater effect to this promise, and increase the obligation of performing it, the contents of the answer were immediately communicated to the agents of the claimants at Paris; they were advised not to dispose of their claims, and told that they might rely on the word of the First Consul. This was done, with a knowledge that no other means could be found by France for discharging the debt, but the cession of New Orleans. In the mean time, Mr. Monroe had been appointed on a special mission to effect the same object. His arrival was expected about the beginning of April, and, so far from expediting, would, by waiting for his arrival, have delayed the termination of our difficulties, but for the concurrence of events which brought the matter to a conclusion in the mind of the First Consul before Mr. Monroe had set his foot in Paris. A history lately published by M. de Marbois, one of the confidential Ministers of Napoleon, has raised the curtain, and exhibited to us what passed in his cabinet on this subject. On the 10th April, two days before Mr. Monroe's arrival in Paris, this important council was held. Louisiana, although ceded, had not yet been delivered to France. The stipulations of the peace of Amiens had not been performed; a renewal of hostilities was daily apprehended, and one of the first acts of those hostilities was expected to be the seizure of Louisiana by the British. France, too, wanted money for carrying on the war; and the First Consul was pressed for the performance of his promise to pay the American debt. Under these circumstances, he submitted to the two counsellors, on the day I have named, the question, whether it would be most expedient to transfer Louisiana to the United States, or to send on the expedition which had been prepared to take possession, and to risk the subsequent conquest of it by

England. His two counsellors took different sides of this question; their arguments are given in detail by the historian, who was himself one of them, and who advocated the cession. The deliberations, he tells us, continued till late in the night. At daybreak on the morning of the 11th, he summoned M. Marbois to hear and execute his decision; he gave it in these words: "Irresolution and deliberation are no longer in season. I renounce Louisiana. It is not only New Orleans that I will cede; it is the whole colony, without any reservation. I know the price of what I abandon. I renounce it with the greatest regret: to attempt obstinately to retain it, would be folly. I direct you to negotiate this affair with the envoys of the United States; do not even wait the arrival of Mr. Monroe; have an interview this very day with Mr. Livingston. But I require a great deal of money for this war, and I would not like to commence it with new contribution. I will be moderate, in consideration of the necessity in which I am of making the sale, but keep this to yourself; I want fifty millions of livres, and for less than that I will not treat." On that very day M. Marbois did make the overture to Mr. Livingston, the price was discussed; but, of course, Mr. Livingston, knowing that Mr. Monroe was joined with him in the mission, and that he had arrived at Havre, could not conclude any thing until his arrival; he had another conference on the 13th (before Mr. Monroe had been presented) with M. Marbois, with whom he had been on a footing of intimacy of as old a date as the revolutionary war, when Mr. Livingston was Minister for Foreign Affairs, and M. Marbois held a diplomatic employment to the old Congress, which considerably facilitated their intercourse on the present occasion. Mr. Monroe arrived on the 12th, and soon after joined his colleague in the negotiation; and the treaty was signed on the 30th of April.

Two circumstances are remarkable in this transaction: first, that the arguments employed in the consultation of the First Consul's cabinet in favor of the cession are precisely those suggested by Mr. Livingston in his memoir of December, 1802, and expressed in nearly the same language; the other, that the arrival of Mr. Monroe, and the part he took in the negotiation, did not change an item in the propositions made by the First Consul.

Two things are adduced, however, as proofs that Mr. Livingston could effect nothing without the aid of Mr. Monroe, and, consequently, that all the merit of the cession is due to him. One is, a private letter written hastily to congratulate him on his arrival, in which he (Mr. L.) speaks doubtingly of final success, unless Mr. Monroe should bring the account of Mr. Ross's resolutions having passed, and says they would negotiate to much better effect with New Orleans in our possession; and most undoubtedly we should. The purchase would have been made for half the price. But it must be remarked that this letter was written on the morning of the 10th, before the resolution which was the result of the Consul's cabinet council was taken. But, in this very letter, Mr. Livingston tells his colleague he had paved the way for him. What did he mean by this, if he had lost all hope?

It is said, too, that this same language was repeated on the night of the 12th, and that it was recorded in Mr. Monroe's journal. There is something that always struck me as singular in thus recording what was said in a friendly visit made at the moment of his arrival. Why was this treasured up, even if it was rightly apprehended? But, sir, there was evident misapprehension or inaccuracy; for Mr. Livingston could not, on the 12th, at night, have used this language, when he had the day before received the overtures from M. Marbois, and even discussed the price. He very probably did repeat that they would have negotiated to greater advantage if New Orleans had been taken; and is it not probable, too, that he might not think it prudent to express what he really thought in the presence of a young gentleman he did not know, and of whose discretion he could not be assured, and that he reserved the communication of the overtures that had been made to him for a fitter occasion? It is said, indeed, that he did not believe the overtures to have been sincere; but whether he thought so or not, he would have been bound to communicate them to Mr. Monroe; and his not doing so on that occasion gives force to the conjecture that he was restrained by the presence of a third person, and used vague expressions, which were not accurately rendered in transferring them to the journal. But Marbois, it is said, also thought that Mr. Livingston was suspicious of the sincerity of the offers; but for this argument it unfortunately happens that M. Marbois takes his fact from Mr. Monroe, and quotes his memoir for his authority; so that, in relying on Marbois's authority, Mr. Monroe only quotes his own.

But whatever were Mr. Livingston's impressions, they could not alter the facts, that the decision to cede Louisiana was taken two days before Mr. Monroe arrived in Paris, and that decision made under the pressure of causes which Mr. Monroe had no share in producing, and of which he was totally ignorant—that the cession would have been made if he had never arrived—that the conditions even were not modified by his interference. The sale of the whole province being resolved on, instead of the part for which he came to treat, and the price fixed by the First Consul on the 11th, before his arrival, being that which was agreed upon afterwards, his merit consists in having agreed with his colleague in exceeding their instructions, and taking the whole instead of part. And yet he assumes to himself the whole credit of the treaty; makes no allowance to the memory of a man, to whose able and laborious negotiation, whatever there was of

merit, in the preparatory steps taken to ensure the cession, was due. Near two years of unremitting exertion to bring about this end are considered as nothing! The dilemma to which the First Consul was reduced by his renewed promise to pay the debts—a promise procured by a bold and hazardous departure from the usual modes of negotiation—and the suggestion, urged with so much force in the memoir of the previous December, that they were used as arguments, and had their effect in bringing about the decision of the First Consul—all these are passed over in silence, and the arrival of Mr. Monroe, the bare weight of whose name before he had arrived, it is given to understand, had more more weight than all these; and Mr. Livingston's name is only mentioned to give him the great merit of agreeing with his colleague.

Sir, I lament that Mr. Monroe should have thought it necessary to pursue this course. It is unworthy of him, and of the memory of a man with whom, to say the least, he would not have lessened himself by acknowledging as an equal. His course has obliged me to make these observations, which, I repeat, are not intended to injure his claim on the justice or gratitude of the country. My duty to a brother's memory has forced from me these explanations. I know the value he placed on the share he had in annexing the vast territory of Louisiana to our confederacy, and should be unworthy of the honor of my relation to him, unfaithful to his memory and ungrateful for his fraternal affection, if I stood by and silently permitted any one to assume the sole credit of it.

What I have said is not intended to injure any claim Mr. Monroe may have on the justice of the country. I should be grieved if it had that effect; nor can I believe it possible that it should.

The question was then put on ordering the bill to a third reading, and was decided as follows:

YEAS.—Messrs. Benton, Bibb, Chambers, Chase, Clayton, Dudley, Frelinghuysen, Grundy, Hayne, Hendricks, Johnston, Livingston, Marks, Poindexter, Robinson, Seymour, Silsbee, Sprague, Tazewell, Tyler, Willey, Woodbury—22.

NAYS.—Messrs. Barton, Bell, Brown, Burnet, Dickerson, Ellis, Foot, Forsyth, Iredell, Kane, McKinley, Robbins, Ruggles, Smith of Maryland, Troup—15.

The bill was then read a third time, and passed.

THURSDAY, March 3.

On motion of Mr. CHAMBERS, the seventeenth joint rule was suspended for this day, so far as respects those bills which have passed both Houses, or require for their final passage an assent only to amendment.

Post Office Department.

Mr. CLAYTON, from the Select Committee appointed on the 15th December last, to inquire into the present state of the Post Office Department, made a report, enumerating certain papers communicated by the Postmaster General, which he was instructed by the committee to move to have printed. The printing was ordered.

Mr. CHAMBERS presented the following memorial from Abraham Bradley, late Assistant Postmaster General:

To the Honorable the Senate of the United States:

The memorial of Abraham Bradley, late Assistant Postmaster General, most respectfully represents—

That, after his removal from office, he, as is well known to the Senate, presented to the President of the United States a letter, in which, among other things, he stated that Mr. Barry, the present Postmaster General, had made an extra allowance to a Mr. Harrall, a mail contractor, and to others, as this memorialist conceived, without warrant of law.

A copy of this letter having been called for, was presented by this memorialist to the present Select Committee of the Senate on the Post Office Department.

During the last session of Congress, a call was made on that department, at the instance of one of the Senators from Ohio, for information relative to the extra allowances which had been made to mail contractors.

The response of the department to that call was submitted to the view of this memorialist as containing matters in which he was deeply concerned. Upon examining it to ascertain if his recollection of Harrall's case was correct, he was unmeasurably astonished to find that the extra allowance was there charged to have been made by him, acting as Postmaster General. It was evident that the documents had been originally different, that an erasure had been made, and the name of this memorialist inserted. Induced by this to examine further, he found that forty-nine cases of extra allowance were in that document charged to have been made by him. Thirty-six of these were similar to the case of Harrall; the original document had been mutilated, and the name of A. Bradley, Jr., acting as Postmaster General, carefully inserted.

This memorialist called the attention of the committee to these circumstances, as evidence of an attempt to impeach his testimony, and to load his official conduct with opprobrium, being public documentary proof from the books of the department, that he had squandered the public funds during the few days he had acted as Postmaster General, between the 10th of March, when Mr. McLean left the office, and the 5th of April, when Mr. Barry came into it, and that, in order to screen himself, he had charged these things upon the latter gentleman. The committee kindly authorized a sub-committee to accompany this memorialist to the department yesterday, the 28th instant, to ascertain whether his statements were correct. Your memorialist confidently appeals to those gentlemen, in support of the fact, that it satisfactorily appeared to them, that in this case of Harrall's, as well as in every other case but one in which an erasure had been made, Mr. Barry was originally and properly charged—and that it was there asserted that these erasures had been made by mistake, and his name inserted by mistake. The gentlemen had not time to pursue

their inquiry, and no examination was made into those cases originally charged to your memorialist.

In whatever manner these mutilations of the original document may have occurred, and these false amendments to it made by mistake or not, the effect must be, if it goes to the world, to injure, if not to destroy, a reputation upon which your memorialist, after nearly forty years' public service, must mainly rely for support. The Senate has, as he has been informed, directed this report to be printed.

If this should be done, and it should, with all its falsehoods and injurious tendency, be spread before the people under the sanction of the Senate of the United States, your memorialist submits that great injustice must necessarily follow to him. He therefore prays that such order may be taken by the Senate, as will secure his right, and especially preserve the reputation which documents published by the authority of the Senate should always possess. And your memorialist, as in duty bound, &c.

March 1, 1831. ABRAHAM BRADLEY.

Mr. CHAMBERS moved that the order for the printing of the report referred to be rescinded.

Mr. GRUNDY thought the better course would be—the right way to do justice—to print the report, and subjoin to it the memorial of Mr. Bradley, and the testimony of Messrs. Brown, Sutter, *et al.*

Mr. CLAYTON, chairman of the Select Committee to whom those documents had been referred, rose, and observed that they were very voluminous, purporting to be answers to the resolution of the Senate of the 14th April last, which directed the Postmaster General to report "copies of all existing contracts made by him or his predecessor in office, on which allowances have been made for additional services; designating, in each case, how much and what additional service has been performed, and by whom it was required, and designating also what sum has been allowed in each case for such additional service, and by whom it was allowed." The answer to this call was kept back until about the 10th of last month. During the debate which occurred here on the resolution of the gentleman from Tennessee, among other things then said, I complained of this delay as an evidence of a design to baffle inquiry into the concerns of the department; and, after that, the report called for in April, 1830, came in. It was first referred to the standing committee on the Post Office, although I prayed for its reference to the Select Committee, to whom unquestionably, as we now see, it properly belonged. The standing committee, without examination, as we must suppose, recommended it to be printed, and the Senate ordered it to be printed. After this, and about a week since, it was referred to the Select Committee. They examined it, and have ascertained that in thirty-six cases of extra allowance to contractors scattered through these documents, embracing some of the grossest violations of the law in granting away the public money to mail contractors, the allowances have been falsely set down as having been made by Abraham Bradley, as acting or assistant Postmaster General, when, in these very cases, the allowances were actually made by the present Postmaster General; and for the truth of this I refer to the deposition of Mr. Bradley, those of the clerks in the department, and the report itself of the Postmaster General in answer to the call, all now on the table before you, as well as to the statements of the Senators from Maine and Tennessee, (Messrs. HOLMES and GRUNDY,) who went to the department as a sub-committee, by our direction, to ascertain the facts. These documents, in each of these cases, exhibit to your eye palpable erasures, where the name of "William T. Barry, Postmaster General," has been rubbed out, and that of "Abraham Bradley, acting Postmaster General," inserted. The result of the examination was, that Mr. Barry's name was originally written down on the documents as the person who made the allowances, according to the truth—that the name of Mr. Bradley was afterwards inserted, and now stands in each of these thirty-six cases, which, call them falsehoods, errors, or what you please, certainly misrepresent the fact. Then it is also necessary to state that the letter of Abraham Bradley to the President, which was read in the debate here on the resolution of the Senator from Tennessee, charging Mr. Barry with gross violation of the law in some of these cases, (particularly in the case of the South Carolina contract,) was written more than a year ago, and shortly after his removal from office; that this letter had been sworn to by Mr. Bradley in the committee; and that the tendency of this falsification of the documents, if undetected, was to convict Mr. Bradley of swearing falsely, who, in saying on his oath that the Postmaster General made the allowances, stated the exact truth. Sir, I have bestowed much attention on these papers, and I do not undertake to say that these are all the misrepresentations contained in them. They are enough, however, to induce the Senate, both in justice to its own character, and the reputation of an excellent citizen and an innocent man, to refuse to give any publicity to documents which all can see, and all now admit to be spurious and mutilated. If they be printed even with the evidence which proves them false, still injustice may possibly result from it; for it will appear to the world, that the Senate had some confidence in these papers; and it may happen that those who shall hereafter read the calumny will not, among such a mass of papers, also advert to the refutation of it. At the time these papers were sent in, Bradley was a witness against the department, and under examination before the committee. All here know what an effort was made in public discussion to impeach his veracity, and I trust all will now admit how entirely that effort failed. But I will not stop to inquire into the motives of those who directed those alterations to be made. With motives we have now nothing to do. But the fact is

incontrovertible, that these documents are unworthy of credit. It is therefore unworthy of the Senate to publish them, and I hope the order for their publication, made in an unguarded moment, may be rescinded.

Mr. HOLMES said: Mr. President, having been selected by the committee as a sub-committee with the Senator from Tennessee, (Mr. GRUNDY,) to go to the department, examine the books, and ascertain what was the truth, we took with us the witness under examination, and proceeded to the General Post Office. We took also the abstract of allowances, now before the Senate. This abstract was obtained by a call made on the 14th of April last, made by a Senator from Ohio, (Mr. BURNET,) requiring, among other things, information of extra allowances made to contractors, and for what additional services, that the Senate might compare the value of the service with the compensation. The answer to this call did not come to the Senate until the 10th of February of this session, near nine months. It was referred to the Committee on the Post Office, &c., and by them returned to the Senate on the 22d, and ordered to be printed, and was then referred to the Committee of Inquiry. It was voluminous, and exceedingly confused; but some members of the committee discovered at once that it must be erroneous, to say the least. The fact is, that Mr. McLean left the department about the 10th of March, 1829—that Mr. A. Bradley, the senior assistant, was then the acting Postmaster General, as *locum tenens* from that time until the 7th of April, less than four weeks. Still, within that time, additional allowances appeared by this "abstract" to have been made, of about 42,000 dollars. Upon examining this "abstract," it appeared, moreover, that there had been thirty-six erasures, and A. Bradley's name inserted. The allowance to Harrall appeared the most extraordinary. This was a case of erasure. It seems that Bradley had, on the 17th of October, 1829, in a letter to the President, among other things, charged Mr. Barry with prodigality, and had instanced this allowance to Harrall. Harrall's contract was for carrying the mail from Georgetown to Charleston, South Carolina, for 6,000 dollars, and the extra allowance was 1,992 dollars, about thirty-three per cent.; and the cause alleged was two hours' expedition; the law allowing only a *pro rata* addition, which would have been about eight per cent. if the two hours' expedition had been required. But here was another error in the abstract, the expedition required being only one and a half hour.

This extravagance, which Bradley, in his letter to the President, had charged upon Barry, and had before the committee verified it by his oath, Barry had, in an official communication, charged back upon Bradley. The reputation of these two gentlemen seemed, therefore, to be so deeply involved, that it became the duty of the committee to ascertain how the fact was, and the sub-committee was accordingly appointed. In pursuance of this appointment, we proceeded to the department; Mr. Barry was not there; we inquired of Mr. Gardner, the assistant, and others, for the persons who made out the "abstracts," and Mr. Taylor and Mr. Dundas were introduced, and, after a preliminary examination, were sworn and testified. We recurred to the erasures, and asked what was erased to make the blanks which were filled by Mr. Bradley's name? They answered, Mr. Barry's and Mr. McLean's, but chiefly Mr. Barry's. Why were Messrs. McLean and Barry's names first inserted? Because they supposed it was right; but Mr. Brown, by order of the Postmaster General, as he said, had determined otherwise, and directed this rule: to take the ledger, and look at the account of the contractor which was adjusted for each quarter, and if the credit of the allowance at the end of the quarter is carried into Bradley's time, charge the allowance to him. It appeared that the account with Harrall was adjusted and balanced to the end of the quarter, to wit, the 1st of April; and, as Bradley was then acting Postmaster General, this allowance was consequently charged to him. I inquired if this quarter's account was adjusted and balanced at the time it bears date? The answer was, no; and not, probably, until June. Whether, if the allowance had been made between the 1st of April (the end of the quarter) and June, the time of actual adjustment, it would have been carried to Harrall's credit in that quarter? The answer was, that it would. Do not you, then, we asked, see the fallacy of your rule in proving who was the Postmaster General who made the allowance? Your quarter closed on the 1st of April, and Bradley's functions ceased on the 7th, and your adjustment of the quarter was made on the first of June. If this allowance had been made any time between the 7th of April and 1st of June, and you had carried it back to the 1st of April, do you not see that you fix on Bradley an allowance made by Barry? Bring your original entry, where, concerning this allowance, you first put pen to paper, no matter what is the name of the book or document. They brought "the cash book;" there the allowance was stated, and the time for which it was made, but not when the decision was made. But I perceived, in a small note in red ink, "see letter of 13th April." I demanded the letter, and it was brought; and, behold, it was a letter of Phineas Bradley to Harrall, six days after Abraham's functions had ceased, stating that the Postmaster General (Barry) had examined his claim for extra compensation, and had directed him to pass the sum of 1,992 50 per annum to his credit, as extra allowance. Here the thing was settled. The charge of Bradley to the President, of Barry's extra allowance, was true; the attempt in Barry's official report to shoulder it off on Bradley was entirely defeated. The Assistant Postmaster General, Gardner, and Chief Clerk, Brown, were forced to admit the error, and

that the rule which had fixed about $40,000 of allowances upon Bradley, took these allowances from McLean, but chiefly from Barry, where they in fact belonged, and charged them upon Bradley, where they did not belong. It was strange, indeed, that this abstract should have been, at first, made out correctly, and that McLean and Barry's names should have been improperly erased and Bradley's improperly inserted. Now, it is not to be presumed that charges so grave as those presented by Bradley to the President of the United States, in his letter of the 17th of October, were never communicated to the Postmaster General. Mr. Bradley had been an Assistant Postmaster General full thirty years, and, in all that time, had maintained an irreproachable character. He had been removed without being permitted to know the cause. One of the charges (to wit, prodigality) which he prefers against the Postmaster General, (Barry,) is attempted to be shouldered off on him. This the witness declares on oath was the act of Barry himself, and proves it in the way I have stated.

The depositions of Brown, Dundas, Taylor, Sutter, and Gardner, admit the misrepresentation in this "abstract;" but "it is an innocent mistake." It may be so, and we wish, in all charity, that we had better grounds to presume it. This "abstract" is neither an original record, nor a copy from any record. It states briefly in each case the amount of the contract, the name of the contractor, the amount of the extra allowance, and for what time. It is neither an extract nor abstract from any record or document. It is rather a compilation of these facts from the letters, the cash book, and the ledger. It seems singular that there is no direct record of the time when these allowances were granted. But, nevertheless, it happended in this case that the subordinate officers found no difficulty in ascertaining which Postmaster General did make the allowances; and nothing but the rule promulgated by Mr. O. B. Brown changed the right into a wrong. Now, it would seem that a rule so utterly fallacious as this, would operate sometimes for, and sometimes against, Mr. Bradley; but this (strange to tell) operated in every case against him, and fixed upon him the most numerous and extravagant extra allowances that were ever made in twice that distance of time. Considering, therefore, that Mr. Barry had been, long before this, presented to the President for extravagance in these allowances; that his answer to a call from the Senate had been altered, by erasures, so as to remove this charge from him, and fix it on Bradley; that the falsity of the official document had been detected, and acknowledged by the officers who have the chief management of the department; it is for the public to decide whether such errors in such a department, which combine to destroy the fair fame of a worthy and highly distinguished citizen, are to be ascribed to gross ignorance or base design.

From all the evidence which we obtained from the department, it would seem that, in less than four weeks, Mr. Bradley is made to have given extra allowances in forty-seven cases; in thirty-six of which Mr. McLean and Barry were rightly charged, but their names were erased, and Bradley's wrongfully inserted. It appears further, that though the call as to these extra allowances, which was made nine months before it was answered, extended also to the reasons or consideration for them, yet in very few instances has the reason or consideration been given; and in some it is found that it has been erroneously given. In this very case of Harrall, all that is pretended to have been gained for this $1,992 per annum, is expediting two hours in twenty-four, which, upon inquiry, turns out to be but an hour and a half. In the short time that this mass of matter has been before us, we have discovered enough to convince me that this mutilated, mangled, perverted document never ought to go to the public with the sanction of the Senate. The Senator from Tennessee suggests that the petition and this document may both be published. But the committee know that the petition is true and the document is not. Shall we, then, give currency to official slander against a citizen who has served you near forty years with distinguished ability and stern integrity? If his faithful services could not save him from a relentless proscription, but he must be cast upon the world in the evening of his days, penniless, and without employ, surely we will not give currency to that which, if true, would consign him to infamy, but which we know is a gross fabrication. If you will consent to adopt a resolution, directing the printer to enclose the erasures in brackets, and insert this resolution in a note at the bottom of each page which shall contain an erasure, the antidote would then go with the poison, and no harm would be done. But, as it is, I protest against such injustice.

The question was then put on suspending the printing, and determined in the affirmative, *nem. con.*

Penal Code.

Mr. LIVINGSTON, of Louisiana, said, it would be remembered, that, on the last day of the last session, he had laid on the table a bill to establish a system of penal law, with the avowed intention of submitting it to the consideration of the Senate at this session. The time occupied by the trial of the impeachment during the beginning, and the extraordinary press of business during the remainder of the session, concurred with other circumstances in preventing him from bringing it up. Among them was a proposition for appointing commissioners to frame a code of laws for the District of Columbia; for that part of which, relating to penal law, this system forms an important point. That proposition having, within a few days, failed, Mr. L. said he would now, in pur-

suance of notice given on a former day, move for leave to bring in his bill. It was his intention, had time permitted, to have developed the principles of the bill, some of which would be found extremely important. Under present circumstances, he would confine himself to saying that it laid down general principles applicable to the subject, provided for the case of those general acts which ought to be punishable under the powers vested in the General Government, in whatever part of the United States they may be committed, and those which may be committed in places under the exclusive jurisdiction of the United States, including, of course, the District of Columbia—that it accurately defined all offences, provided as well for their prevention as their punishment—includes a complete system of procedure—a code of prison discipline, and a book of definitions, explaining all the technical words used in every part of the system. He would mention two important features in the plan—the one was, providing, by positive law, for defining and punishing offences against the laws of nations, and, among them, some which had hitherto been left without any sanction; such as offences against that law which regulated, in modern times, the conduct of civilized nations with respect to each other in time of war as well as of peace. As these were entirely new, Mr. L. said he wished, when the document was put in the hands of the Senators, they would pay particular attention to its provisions, as well as to one most important principle which pervades the whole—the total abolition of the punishment of death. To this he invited the Senators to give a most serious reflection, that they might be prepared to meet the discussion which he should think it a duty to invite at the next session.

Having been prevented, by the reasons which he had mentioned, from explaining the provisions of the system in an address to the Senate, he would supply it by an introductory report which would be delivered to the members of both Houses, together with the system. Mr. L. then moved for leave to bring in the bill, which was granted.

Mr. ROBBINS said that he held a document on the subject of the abolition of the punishment of death, which he thought would be very useful to the Senate in forming an opinion on that subject. It consisted of extracts from reports made to the Legislature of Louisiana by the Senator from that State, which had been lately republished in Pennsylvania. He moved that it might be printed; which was ordered.

On motion of Mr. WOODBURY, the Senate then went into executive business, and sat with closed doors till four o'clock, when they took a recess till six.

EVENING SESSION.

The Senate re-assembled at six o'clock, and immediately went into the consideration of executive business, and sat with closed doors until half past seven.

Messrs. WOODBURY and BURNET were then appointed a committee, to join the committee appointed by the House of Representatives, to wait on the President of the United States, and inform him that, unless he had some further communications to make to that body, it was ready to adjourn.

The committee soon after returned, and notified the Senate that the committee had attended to the duty assigned them, and that the President informed them he had no further communications to make.

On motion,

Ordered, That the Secretary notify the House of Representatives that the Senate, having concluded the legislative business before it, are now ready to adjourn.

The Secretary having returned,

The PRESIDENT *pro. tem.* adjourned the Senate *sine die*.

TWENTY-FIRST CONGRESS.—SECOND SESSION.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 6, 1830.

At 12 o'clock precisely, the roll of members was called over by the Clerk of the House, (MATTHEW ST. CLAIR CLARKE,) and it appeared that one hundred and seventy-five Members and two Delegates were present.

The Clerk having announced that a quorum of the House was present—

Mr. ARCHER, of Virginia, rose, and said that he was requested by his colleague, the SPEAKER of this House, to state, that he was prevented from attending by indisposition; but that he expected to be able to reach the city before the usual hour of sitting of the House to-morrow. A gentleman who had arrived in the city in this morning's mail-boat, brought information that he passed the Speaker yesterday on his road to this place. In anticipation of the question which might be presented by the absence of the Speaker, Mr. A. said he had looked to the records, to ascertain what had been the practice of the House on like cases heretofore. He found that it had been two-fold: in one or more cases, the House having, on the absence of the Speaker, adjourned from day to day, and in two cases, occurring in one year, (1798,) having elected a Speaker *pro tempore*. He had risen, he said, only to make the communication which he had done from the Speaker, and to state what had been the practice heretofore. It would be for the House to determine what course it would pursue on the present occasion.

Mr. POLK, of Tennessee, said, after the communication which had just been made to the House, it being probable that the Speaker would be here to-morrow, he should propose that the House do now adjourn until to-morrow.

The question was taken on this motion, and decided in the affirmative.

So the House adjourned.

TUESDAY, December 7.

The SPEAKER (the Hon. ANDREW STEVENSON, of Virginia) being present this day, took the chair at 12 o'clock.

The journal of yesterday having been read, the members elected since the last session were sworn in.

Messages were then interchanged between the two Houses, that they were respectively ready to proceed to business.

A committee was then appointed, to join such committee as should be appointed on the part of the Senate to wait upon the President, and inform him that the two Houses were formed, and ready to receive any communication which he might have to make.

Soon after which Mr. HAYNES reported that the committee had performed the duty assigned to them.

On motion of Mr. TAYLOR, of New York, it was determined that two chaplains should be appointed, as usual, of different denominations, to interchange weekly between the two Houses.

The Message of the President of the United States was then brought in by his private Secretary, Mr. Donelson, read, and ordered to be printed—referred to a Committee of the Whole on the state of the Union. For Message, see Senate Proceedings, p. 109.

THURSDAY, December 9.

President's Message—Reference of the respective parts to the different Committees.

On motion of Mr. HOFFMAN, the House then resolved itself into a Committee of the Whole on the state of the Union, Mr. WICKLIFFE in the chair.

Mr. HOFFMANN moved resolutions referring the various subjects of the President's Message to different standing and select committees.

All were referred, without question, until the sixth resolution was arrived at, which was in these words:

"*Resolved*, That so much of the said Message as relates to the public debt, the revenue, its security, and collection, the Bank of the United States, and the organization of a bank founded on public and individual deposits, be referred to the Committee of Ways and Means."

Mr. WAYNE moved to amend the said resolution, by striking out the words "the Bank of the United States, and the organization of a bank founded on public and individual deposits," and at the end of the said resolution to add the following:

"And that so much of the said Message as refers to the Bank of the United States, and to the organization of a bank as a branch of the Treasury Department, be referred to a Select Committee."

Mr. TAYLOR moved for a division of the question, so that the sense of the committee should first be had on striking out.

The motion was agreed to; and,

The question being put by the Chair,

It was decided in the negative—only fifty-four rising in favor of striking out.

The remainder of the resolutions were then severally agreed to.

The committee then rose, and reported the resolutions as amended to the House.

The question being stated from the Chair to agree to the resolutions, as amended in committee,

Mr. WAYNE moved that the question be put on agreeing to all but the sixth.

No objection being made, the question was so taken, and all the resolutions were agreed to by the House, with the exception of the sixth.

Mr. WAYNE now renewed the motion which he had made in Committee of the Whole.

Mr. WAYNE, in supporting this motion, apologized for troubling the House with a remark or two on this topic, at so early a period of the session. The first communication made to Congress by the present Executive, (at the last session,) intimated a doubt in his mind as to the propriety of rechartering the existing Bank of the United States. The portion of his Message on this subject had been referred to the Committee of Ways and Means, who submitted to the House a report, in which they exhibited at great length their views, which were opposed to those expressed by the President. Should the present portion of his Message be referred to the same committee, unless some great and unexpected change had taken place in their opinion since the last session, the subject would be met by men whose minds were already made up, whose sentiments had been publicly expressed, and who, therefore, could not be expected to give it that fair and unbiassed consideration which its great importance demanded. The importance of the question touching the bank must be acknowledged by every one, as well as its agitating effect on the public mind, throughout every portion of the Union. He conceived it as only respectful to the President, when such a subject was by him officially recommended to the attention of Congress, to place it in such an attitude as should secure to it a calm investigation by persons who had not prejudged it. Mr. W. said he would not disguise the fact that his own views in relation to the rechartering of the present bank were such as would induce him to vote against it in every event; but what he wished at present was, that the House might ascertain whether it was practicable or not to organize an institution resting on the funds of the country, which, while it secured all the advantages intended to be attained by the existing bank, should avoid the dangers with which that establishment was by many conceived to be fraught. The inclination of his own mind was to the opinion that this was practicable; but he desired, at all events, that the question should be submitted to those who would go to its discussion untrammelled by any previous judgment. It was not from any feeling of hostility to the bank that he was induced to desire this, but from a wish for fairness in the treatment of the subject itself, and from respect to a communication made to Congress by the Chief Magistrate.

Mr. CHILTON, of Kentucky, said, that whilst he had, he trusted, a proper regard for the President of the United States, he had some regard also for the committee to whom it was proposed to refer this subject. He did not himself feel any particular interest in this matter, either for or against the bank. But, at the last session of Congress, a very able report upon the subject had been made by the Committee of Ways and Means, which he had no doubt placed the subject in as fair a point of view as it could be placed by a select or any other committee. He had heard no sufficient reason why the subject should now be taken out of the hands of that committee. As this subject, moreover, had been heretofore referred to the Committee of Ways and Means, to give it a different direction now, would be to cast a reflection on that highly respectable committee, at the head of which stands a gentleman whose character for firmness on the one hand, and integrity and abilities on the other, could not be questioned. Mr. C. was therefore opposed to the amendment.

Mr. CONDICT, of New Jersey, desired that the question on Mr. WAYNE's amendment should be taken by yeas and nays, and it was ordered accordingly to be so taken.

Mr. DAVIS, of South Carolina, proposed to amend the amendment, so as to strike out the latter clause, and refer simply the question concerning the present bank, without the establishment of a substitute for it, to the consideration of a Select Committee.

This motion was negatived.

Mr. TAYLOR, of New York, said that, if the subject referred to in the Message had been

entirely new, he should have no objections to the amendment proposed by the gentleman from Georgia, (Mr. WAYNE;) but when it was considered that, by the rules of the House, the report made at the last session by the Committee of Ways and Means was continued as a part of the business of the present session, that fact, he thought, furnished an objection against the sending of the same subject to a Select Committee. Such a measure would amount, in substance, to sending the report of one of the standing committees of this House to be reviewed by a Select Committee. Would this be respectful? Would it be treating the Committee of Ways and Means with that deference which was due to them, to take their report, (whether it was before the House, or had been referred to a Committee of the whole House on the state of the Union, or a Committee of the Whole,) and send it to a Select Committee? What direction had been given to the report of last session, he had been unable to ascertain, the means not being at this time within reach of the officers of the House; but, whatever it had been, the report was a part of the business of the House continued over from last session, and was to be viewed in all respects the same as if it had been rendered at the present session. And he put it to the House whether it would be proper to send a report now made by one committee of the House, and submit it to another?

[The CHAIR here stated that he was informed by the Clerk that the report of the Committee of Ways and Means was at the last session laid on the table of the House.]

Mr. TAYLOR said, if that were the case, could any one disapprove an arrangement which would eventuate in sending the subject to a Committee of the Whole on the state of the Union, that it might there receive the fullest examination that any of its advocates could desire? He suggested to the House, therefore, that the course in the original motion was evidently the proper one.

Mr. HOFFMAN, of New York, said that, in making the motion he had done in reference to this clause of the President's Message, he had not intended to express either approbation, or the contrary, as to the reasoning or the statement of facts it contained; nor had he supposed that his motion involved the slightest disrespect towards the Executive. He had been led to propose the disposition to be given to the subject, from no friendship or hostility to the present Bank of the United States: no expression of opinion on that subject was now called for.

[The CHAIR observed that the merits of the measure proposed in the Message were not before the House, but simply a question as to the proper committee to whom it was to go.]

Mr. H. resumed, and said that he had made the foregoing observations expressly for the purpose of doing away any inference, from his motion, of his personal friendship or hostility toward the bank as now organized. That subject had always, heretofore, been referred to the standing committee of the House having cognizance of the finances of the country. He could not bring himself to believe that the opinions of the gentlemen forming that committee were so irrevocably fixed, as not to remain open to the developments of time and the influence of sound reasoning. Could he suppose this, he should certainly be in favor of referring the subject to some committee which should be differently constituted. It was indifferent to him what might be the disposition made by the House of this part of the Message. If it was referred to a Select Committee, he hoped that such a committee would be selected as would be perfectly competent to the consideration of the matter; and if it was referred to the Committee of Ways and Means, he trusted that they would consider it dispassionately, and without prejudice. Either course would secure, he doubted not, a full and able investigation.

Mr. WAYNE again rose. It was, he said, from no want of respect to the Committee of Ways and Means that he had been induced to desire that this important subject should be referred to a Select Committee. He again insisted, that when the subject of a national bank had been a second time, and in a more explicit and particular manner, recommended to the consideration of the House, it would not be respectful to the Chief Magistrate to send it back to a committee who had made up their opinion in opposition to that intimated by the Executive. He had not the least doubt that if the light of truth could be made manifest to them, the minds of those gentlemen were open to conviction on this as on every other subject; but all knew that truth was often difficult of access, and sometimes not less difficult to be received, and this acknowledgment involved no imputation whatever on the uprightness of that committee. He had another reason for wishing the amendment to prevail; it was not to be expected that, unless the question was submitted to a few minds which felt a strong interest in regard to it, it would be examined with that application and industry which were indispensable to the full development of the subject. The suggestion of the President involved a reference to the amount and places of deposit, their effect upon commerce, &c., &c., which could not be gone into at large unless by a committee specially devoted to the subject. If the House approached the investigation through its Committee of Ways and Means, could it expect as full and detailed a report as if by a Select Committee, whose views corresponded with those of the President? He knew that gentlemen would object to his proposition; that the reference to a Select Committee would excite a belief in the community that the United States Bank was not to be rechartered, and thus greatly depress the price of bank stock. Admit that such might be the effect, was this a valid objection? Was the House bound to preclude inquiry on a most im-

portant subject, from a fear that the discussion might affect the price of stocks? Suppose the question should be deferred, it must come up at last; and would it not affect stock then as much as now? Mr. W. said, when the question came up on rechartering the bank as now organized, he should vote against it, because its benefits enured to individuals and not to the Government, who might, by means of such an institution, contribute to relieve the people of the Union from unjust taxation to the amount perhaps of millions annually. He should, however, abstain from entering upon the merits of the main question at this time. He was aware that it would not be in order to touch upon them. He had had the honor of offering a resolution on the same subject at the last session, and should renew it at the present session. His only motive then, as now, had been to promote an inquiry after truth. He believed that the appointment of a Select Committee would elicit a mass of facts which it was desirable to obtain, and which would not otherwise come before the House, tending to show whether the measure proposed by the Executive was practicable or not.

Mr. CAMBRELENG, of New York, said that if the yeas and nays had not been ordered on this subject, he should not have risen. He was opposed to the amendment of the gentleman from Georgia, because he viewed the whole question as premature at this time. When the proper time arrived for its consideration, he should certainly be in favor of referring it to a Select Committee. It had been so referred when the bank petitioned for a renewal of its charter. He had the greatest respect for the gentleman at the head of the Committee of Ways and Means, (Mr. MCDUFFIE,) but he thought the subject ought never to come before the House until the bank should again appear as a petitioner for the renewal of its charter. The President, in presenting his Message to Congress, had glanced his eye over the whole interests of the country, and had, very properly, given to the House his views of a great and weighty question of public policy. It was a question which involved the circulating medium, and, in fact, the property of the whole nation. As such, the question was before the people—it was a question for the nation to decide. In this House, it was not fairly presented as a subject of inquiry until the bank should apply for a new charter; when that time arrived, Mr. C. said he should be for sending it to a Select Committee; but at present the whole matter was premature.

The question was then taken on the motion of Mr. WAYNE, and decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Alexander, Allen, Angel, Barnwell, Baylor, Bell, James Blair, John Blair, Boon, Borst, Brodhead, Carson, Chandler, Claiborne, Clay, Coke, Conner, Daniel, Davenport, Warren R. Davis, Earll, Findlay, Ford, Foster, Fry, Gaither, Gordon, Hall, Halsey, Hammons, Haynes, Hinds, Leonard Jarvis, Cave Johnson, Kennon, Perkins King, Lamar, Lea, Leavitt, Lecompte, Lewis, Loyall, Lumpkin, Thomas Maxwell, Monell, Norton, Nuckolls, Pettis, Polk, Potter, Powers, Rencher, Roane, Sanford, Scott, Augustine H. Shepperd, Shields, Standifer, Taliaferro, Wiley Thompson, John Thomson, Trezvant, Tucker, Wayne, Weeks, Wickliffe, Yancey—67.

NAYS.—Messrs. Alston, Anderson, Arnold, Bailey, Barber, Barringer, Bartley, Beekman, Bockee, Brown, Buchanan, Butman, Cahoon, Cambreleng, Chilton, Clark, Coleman, Condict, Cooper, Cowles, Craig, Crane, Crawford, Creighton, Crocheron, Denny, Dickinson, Draper, Drayton, Dudley, Duncan, Eager, Ellsworth, G. Evans, J. Evans, H. Everett, Finch, Gilmore, Gorham, Green, Grennell, Harvey, Hemphill, Hodges, Hoffman, Holland, Howard, Hughes, Hunt, Huntington, Ingersoll, Irvin, Irwin, Jennings, Johns, Kendall, Kincaid, A. King, Lent, Letcher, Lyon, Magee, Mallary, Marr, Martindale, Lewis Maxwell, McCreery, McIntire, Mercer, Miller, Mitchell, Muhlenberg, Overton, Patton, Pearce, Pierson, Randolph, Reed, Richardson, Rose, Russel, William B. Shepard, Semmes, Sill, Smith, Speight, Ambrose Spencer, Sprigg, Stanberry, Sterigere, Storrs, Strong, Sutherland, Swann, Swift, Taylor, Tracy, Vance, Varnum, Verplanck, Vinton, Washington, Whittlesey, Edward D. White, Williams, Wilson, Wingate, Young—108.

So the House refused to amend the resolution, and the resolution, as reported by the Committee of the Whole, was agreed to.

The House then adjourned.

FRIDAY, December 10.

Judge Peck.

After the reception of petitions and resolutions:

On motion of Mr. BUCHANAN, in order to give time for the House to make the preliminary arrangements for the trial of Judge Peck, which commences in the Senate chamber at 12 o'clock on Monday next, the House agreed to meet at 11 o'clock on that day.

MONDAY, December 13.

Judge Peck.

Mr. BUCHANAN, on behalf of the managers appointed to conduct the impeachment against Judge James H. Peck, submitted the following report, which was agreed to:

The Committee of Managers appointed by the House of Representatives to conduct the impeachment against James H. Peck, judge of the district court of the United States for the district of Missouri, report, that they have had under consideration the answer of Judge Peck to the article of impeachment exhibited against him by the House, and recommend the adoption of the following replication thereto:

REPLICATION

By the House of Representatives of the United States to the answer and plea of James H. Peck,

judge of the district court of the United States for the district of Missouri, to the article of impeachment exhibited against him by the House of Representatives.

The House of Representatives of the United States having considered the answer and plea of James H. Peck, judge of the district court of the United States for the district of Missouri, to the article of impeachment against him by them exhibited, in the name of themselves and of all the people of the United States, reply, that the said James H. Peck is guilty in such manner as he stands impeached; and that the House of Representatives will be ready to prove their charges against him at such convenient time and place as shall be appointed for that purpose.

Resolved, That the foregoing replication be put in to the answer and plea of the aforesaid James H. Peck, on behalf of this House; and that the managers be instructed to maintain the said replication at the bar of the Senate, at such time as shall be appointed by the Senate.

Duties on Sugar.

Mr. HAYNES, of Georgia, submitted the following resolution:

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of repealing the duties on sugar imported from foreign countries into the United States.

Mr. SUTHERLAND required that the question be taken upon the consideration of the resolution; and Mr. WILLIAMS demanded the yeas and nays on the question. They were ordered by the House, and, being taken, stood as follows:

YEAS.—Messrs. Alexander, Alston, Anderson, Angel, Archer, Armstrong, Barbour, Barnwell, Barringer, Baylor, Bell, James Blair, John Blair, Boon, Brodhead, Brown, Cambreleng, Campbell, Carson, Claiborne, Clay, Coke, Conner, Craig, Crocheron, Warren R. Davis, Desha, De Witt, Draper, Drayton, Dudley, Earll, Gaither, Gordon, Hall, Halsey, Hammons, Harvey, Haynes, Hinds, Holland, Hoffman, Hubbard, Jarvis, Jennings, Cave Johnson, Lamar, Lea, Lecompte, Lent, Lewis, Loyall, Lumpkin, Thomas Maxwell, McDuffie, McIntire, Mitchell, Monell, Nuckolls, Patton, Pettis, Polk, Potter, Powers, Reuben, Roane, Sanford, William B. Shepard, Augustine H. Sheppard, Shields, Speight, Richard Spencer, Stanberry, Standifer, Taliaferro, Wiley Thompson, Tucker, Verplanck, Wayne, Weeks, Campbell P. White, Williams, Wilson—83.

NAYS.—Messrs. Arnold, Bailey, Barber, Bartley, Bates, Beekman, Bockee, Borst, Buchanan, Butman, Cahoon, Clark, Coleman, Condict, Cooper, Coulter, Cowles, Crane, Crawford, Creighton, Crowninshield, Daniel, Denny, Dickinson, Doddridge, Duncan, Dwight, Eager, Ellsworth, George Evans, Horace Everett, Findlay, Finch, Ford, Forward, Fry, Gilmore, Green, Grennell, Gurley, Hawkins, Hemphill, Hodges, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Irwin, Irvin, Richard M. Johnson, Kendall, Kennon, Kincaid, Perkins King, Adam King, Leavitt, Lyon, Magee, Mallary, Marr, Martindale, Lewis Maxwell, McCreery, Miller, Muhlenberg, Overton, Pearce, Pierson, Ramsey, Reed, Richardson, Rose, Russel, Scott, Sill, Smith, Ambrose Spencer, Sprigg, Sterigere, Stephens, Storrs, Strong, Sutherland, Swann, Swift, Taylor, John Thompson, Tracy, Vance, Varnum, Vinton, Washington, Whittlesey, Edward D. White, Wickliffe, Yancey, Young—99.

So the House refused to consider the resolution.

United States and Denmark.

The SPEAKER laid before the House the following Message from the President of the United States:

To the House of Representatives of the United States:

I transmit to the House of Representatives printed copies of the convention between the United States and his Majesty the King of Denmark, concluded at Copenhagen on the 28th of March, 1830, and ratified by and with the advice and consent of the Senate.

ANDREW JACKSON.

WASHINGTON, *December* 10, 1830.

The Message and convention were referred to the Committee on Foreign Affairs, and ordered to be printed.

Presentation of a National Flag made of American Silk.

The SPEAKER likewise laid before the House the following letter, which was read; and, on motion of Mr. SPENCER, of New York, ordered to be referred to the Committee on Agriculture:

PHILADELPHIA, *December* 7, 1830.

SIR: You will receive with this letter a silken flag, bearing the colors of the United States. This flag is made entirely of American silk, reeled from the cocoons, prepared and woven by Mr. John D'Homergue, silk manufacturer. The coloring has been done by the best artist he could procure in the city of Philadelphia, he himself not professing to be a dyer.

The staff of this flag, with the eagle, measures about fifteen feet; the flag itself is twelve feet and a half long, and six feet wide. It is woven all in one piece, without a seam.

I beg, sir, you will be so good as to present this flag, most respectfully, in my name, to the honorable House over which you preside, as a sample of American industry, thus applied, for the first time, to the most valuable of American productions; and as a result of the efforts they have made during the last five years for the promotion of the important branch of agriculture to which we owe the rich material of which this flag is composed.

I have the honor to be, with the highest respect, sir, your most obedient and most humble servant,

PETER S. DUPONCEAU.

Hon. ANDREW STEVENSON,
Speaker of the House of Representatives.

The Impeachment.

A message was received from the Senate, informing the House that they were in their public chamber, and ready to proceed on the trial of the impeachment of James H. Peck: and that seats were provided for the accommodation of the members of the House.

Whereupon, Mr. BUCHANAN submitted the

following resolution; which was carried, *nem. con.*:

Resolved, That a message be sent to the Senate to inform them that this House have agreed to a replication, on their part, to the answer and plea of James H. Peck, judge of the district court of the United States for the district of Missouri, to the article of impeachment exhibited to the Senate against him by this House, and have directed the managers appointed to conduct the said impeachment to carry the said replication to the Senate, and to maintain the same at the bar of the Senate, at such time as shall be appointed by the Senate.

Election of Chaplain.

Mr. TAYLOR moved that the House do now proceed to the election of a chaplain; which motion was agreed to.

Messrs. ARCHER, WHITTLESEY, and FORWARD were appointed tellers: whereupon,

Mr. ARCHER nominated the reverend Mr. Post; Mr. FORWARD nominated the reverend Mr. Thomas; Mr. WHITTLESEY nominated the reverend Mr. Gurley; and Mr. HUBBARD nominated the reverend Mr. Palfrey.

On counting the first ballot, it appeared that 180 votes were given in—necessary to a choice 91; of which Mr. Post received 83; Mr. Gurley, 46; Mr. Palfrey, 34; Mr. Thomas, 12; and there were five blank votes.

After two other ineffectual ballotings,

On the fourth ballot there were 170 votes—necessary to a choice, 86: Mr. Gurley received 91; Mr. Post, 75; and there were four scattering.

So the reverend Ralph R. Gurley was duly elected Chaplain on the part of the House of Representatives for the present session.

Mr. JOHNSON, of Kentucky, remarked that there was a difference of opinion, at least in his quarter of the House, as to the order which should be taken in attending the trial of Judge Peck, in the Senate of the United States. Some were of opinion that the House should attend in a body; others thought that it would only be necessary for the managers on the part of the House to attend during the trial. At the last session, said Mr. J., the House were in attendance; and it was thought by many members that the same course would be pursued at this session. He wished, for his own part, to have a correct understanding of the subject, and he would thank the Chair to give to the House his opinion as to the course that should be pursued.

The SPEAKER stated that the resolution of the House at the last session was confined to its attendance before the court of impeachment for a single day. The Clerk, however, would read the resolution.

[The resolution having been read, which was, in effect, that the House would in a body attend in the Senate chamber for a certain day, to support the charges against Judge Peck,]

Mr. BUCHANAN rose, and observed, that there seemed to be a misunderstanding upon the subject. With the permission of the House he would state the course that had been pursued by the managers. They had examined all the precedents which had occurred in this country, to guide them to a correct performance of their duty. It was ascertained that, since the adoption of the present constitution, there had been three impeachments, viz., those of Messrs. Blount and Pickering, and Judge Chase. On the trial of the two first, the House did not attend in a body, but left it to the managers to conduct the impeachment; on the trial of Judge Chase they did attend every day. It not being considered by the managers of the pending trial that any principle so important as to interrupt the legislative business of the House was involved in the present case, they had gone to the Senate this day, as managers, and presented to that body the replication agreed upon by the House. Mr. B. further remarked, that he had consulted the English precedents. On the trial of Warren Hastings, the House of Commons attended at the commencement of the trial, but they did not continue to do so. On the trial of the Earl of Macclesfield, they did not attend until his conviction by the House of Lords; and then they attended in consequence of a message having been sent them by that body, that they were ready to pronounce judgment on the impeached, if the House of Commons would attend and demand it.

Mr. B. would not advocate the attendance or non-attendance of the House at the trial which was to take place. He had felt it to be his duty to state the course which had been pursued on previous occasions of impeachment, and what had been done by the managers in the present case, and to state that his sole object was to do that which would best please the House. No motion having been made this morning on the subject, the managers had felt it to be their imperative duty to attend at the bar of the Senate, and present the replication which had been agreed upon.

Mr. JOHNSON, of Kentucky, said, that one great object of his rising had been to obtain from the managers an explanation of the course which they had taken. For his part, he wanted to go on with the public business. He recollected, however, the great debate in the Senate at the last session, and that it was nearly impossible to retain a quorum of the House; if it were probable such would be the case on the present occasion, and the House should be compelled to adjourn from day to day for want of a quorum, how much soever he wished the public business attended to, he would prefer that the House itself should conduct the impeachment.

Mr. J. was about to proceed, when the Speaker reminded him that there was no proposition before the House, and suggested the propriety of his submitting a resolution on the subject.

Mr. J. declining to make any distinct motion at this time, the House adjourned.

TUESDAY, December 14.

Sunday Mails.

A memorial was presented by Mr. COULTER, on the subject of Sunday mails—recommending that the mail should be discontinued on the sabbath. On its presentation, he moved its reference to the Committee on the Post Office.

Mr. JOHNSON, of Ky., objected to giving the petition the direction moved by the gentleman who presented it.

He observed, that if the authors of the petition had an advocate or advocates on this floor, he was perfectly willing that the report formerly made by the Post Office Committee on the general subject should at any time be called up. Let the House hear what gentlemen had to say on a subject which he had always thought, and would now say, ought never to have been brought into the Hall of Congress. He was desirous to hear what could be said in favor of Congress interfering with religious considerations. The committee had acted on the subject, and it would not do so again, unless compelled to do so by an express order of the House. He hoped the gentleman from Pennsylvania (Mr. COULTER) would acquiesce in the motion which he would now make, that the petition be laid upon the table, or, rather, that it be referred to a Committee of the Whole on the state of the Union; and he made that motion.

Mr. COULTER said that he felt very indifferent what direction should be given to the petition. He had always considered it proper, when the House was addressed in a decorous manner, on any subject proper for legislation, to give the petition a respectful consideration. In the present case, as the course indicated by the Chairman of the Post Office Committee was likely to effect the very object which the petitioners had in view, viz., to have the subject discussed, and obtain some action of Congress in relation to it, he was entirely willing it should be adopted. He had made a different motion, only out of the courtesy which he supposed due to the Post Office Committee, and in compliance with the custom of the House. He had no doubt that the honorable Chairman of the Post Office Committee was both competent and willing to meet the discussion, which it was the object of the prayer of the petitioners to invite. If they had an advocate in the House, that advocate would doubtless avail himself of the privilege of debating the question without being specially invited so to do by any one. Mr. C. said it was not his purpose to avow himself as their champion, as he did not feel himself pledged to any particular course in the matter; he should endeavor on this, as on other occasions, to do what he considered his duty to his constituents demanded. If that duty led him to advocate the cause of these petitioners, he should be ready, in so doing, to meet even the gentleman from Kentucky.

Mr. JOHNSON again rose, but the Speaker suggesting that there was no proposition before the House, the petition was referred to the Committee of the Whole on the state of the Union, by the acquiescence of the mover.

Mr. HAYNES moved the reference of a petition to another committee; which was assented to.

THURSDAY, December 16.

Government Live Oak Plantations—Perversion of the Law.

The following resolution, yesterday submitted by Mr. WHITE, of Florida, was taken up:

Resolved, That the Secretary of the Navy be directed to communicate to this House copies of the correspondence of the superintendent, and reports of the overseer of the live oak plantations near the navy yard at Pensacola.

Mr. SPEIGHT offered the following amendment:

"And that he be further directed to communicate to this House copies of all correspondence, contracts, deeds, or other papers, connected with the purchase of live oak lands in Florida, in the possession of, or within the control of the Navy Department; the quantity purchased; the persons from whom the purchases were made; the prices given; to whom paid, when paid, and on what authority; together with all other information tending to show the value of such lands at the time of the purchase, as well as the quantity and value of the live oak timber on each tract, fit for naval purposes."

Mr. WHITE, of Florida, said he did not object to the amendment proposed by the gentleman from North Carolina, and would accept it as a modification of his resolution, although all the information called for by it had at the last session been communicated to Congress. The object he had in view was a simple one, and related to a subject of more importance than might at first be imagined. The Secretary of the Navy, in his report to the President, and by him communicated to Congress, holds the following language:

"Further efforts have been made for the execution of this act, as far as it relates to the preservation of the live oak growing on the coasts of the Atlantic and Gulf of Mexico.

"By the fourth section of this act, the President is authorized to provide for the preservation of this timber; but it seems to have been intended that the power should be limited to that object. An interpretation of the law has heretofore been entertained, extending this power not only to the planting of the acorns, and the cultivation of plantations of young trees, but to the purchase from individuals of lands producing them. The paper accompanying this, marked D, shows the amount which has been expended on these plantations, and the sums which have been paid to individuals for the purchase of tracts of such land.

"When it is considered that this timber is the natural product of the coast of the United States,

from the St. Mary's to the Sabine; that the greater part of this belongs to the United States, and is proposed to be retained with a view to preserving a supply of this important material for the navy, it can scarcely be necessary for the present to engage in its artificial propagation or culture.

"Under an impression that this system is neither expedient, nor in conformity to the intentions of the act, an order has been given to discontinue the works after the expiration of the present year.

"But the preservation of this timber is an object of great importance, and should be prosecuted with an active and undeviating purpose."

He has exhibited in this report the expenses of a public work recommended by his predecessor, upon the concurrence of the most experienced naval officers, and sanctioned by Congress, and has announced his determination to discontinue it at the end of this year. The expenses to which the Government have been subjected, are only disclosed by him. The extent, progress, and benefit of the work is not presented, and can only be understood by having copies of the papers called for in the resolution he had the honor to submit. To form a just idea of any public improvement, the advantages as well as expenses should be exhibited to those who are to decide whether the policy of the country requires its continuance.

From a perusal of the report of the Secretary of the Navy, one would be led to believe that an unauthorized interpretation had been put by his predecessor upon the third (erroneously called fourth) section of the act for the gradual improvement of the navy. It had fallen to his lot to know something about this subject, which, as it had not been disclosed in the report, ought now to be stated here.

The subject of forming plantations of live oak for the future supply of that valuable timber for the navy, was first introduced by a resolution in this House, on the 12th of January, 1827. By that resolution, the Committee on Naval Affairs were instructed to inquire into the expediency of forming plantations for rearing live oak for the future supply of the navy. It passed by an almost unanimous vote; and it was then distinctly announced that the timber was so rapidly disappearing, that, unless artificial propagation and culture were resorted to, there would not be a sufficient quantity in a few years for naval purposes.

It never was conceived that the act for the gradual improvement of the navy conferred power to make purchases of land. No such "interpretation was ever entertained," and no such power claimed or exercised. On the contrary, it was believed that the Executive had no such authority; and as it was considered that the public interest would be promoted by the purchase of a few individual claims, to complete a proposed reservation of the public land near a navy yard, a specific appropriation was made in the bill making appropriation for the navy in 1828, and will be found in the third section of that bill as follows:

"*Be it further enacted*, That there be, and is hereby, appropriated for the purchase of such lands as the President of the United States may think necessary and proper to provide live oak and other timber for the use of the navy of the United States, a sum not exceeding ten thousand dollars," &c.

This is the authority under which the purchases were made, and not the fourth section of the act for the gradual improvement of the navy.

The object of this provision was distinctly explained in a communication to the Committee on Naval Affairs in the Senate and House of Representatives, and by them to the respective branches of Congress to which they belonged. It was proposed by the President to make a reservation of the peninsula formed by Pensacola Bay and St. Rosa's Sound, near to the navy yard, for the live oak then upon it, and to make an experiment of, or its further propagation by, artificial culture. The situation was perhaps the best in the United States. The promontory between these two bodies of salt water, from its peculiar position and almost insular form, presented advantages which were not offered on any other part of that coast. At the distance of eighteen or twenty miles up the sound, the waters approached within half a mile, which afforded an opportunity of keeping out, with little care and expense, the fires which are so destructive to the young trees. There were within this boundary a few individual claims to be extinguished, to give the United States exclusive jurisdiction and possession of the land. The contiguity of this land, too, to the navy yard, rendered it accessible at all times to the officers, and subject to their superintendence. A plan was made at the General Land Office, the price to be paid stipulated, the situation well understood, and the intention of the Government made known, and, with a full knowledge of all these facts, Congress made the appropriation. This took place in that year, when a majority of both committees, and of both Houses of Congress, were opposed to the Administration, so that there was no overstrained construction, no absurd and arbitrary interpretation, to make these purchases. If the attack is intended to be made upon the policy of the measure, it is impugning the decision of Congress. The Secretary has also stated that live oak is the "natural product" of the whole coast from St. Mary's to the Sabine. This is assumed as the ground for abandoning the policy adopted by Congress, and continued by this Administration from the 4th of March, 1829, up to this time. I regret that I am under the necessity of differing from the Secretary so widely in this statement. If the honorable Secretary had referred to the respectable naval officers in the other end of the building, they would have told him, from information acquired from an intimate personal acquaintance with that coast, that the live oak is found sparsely scattered at most remote distances, and in small bodies. If artificial culture is not resorted to,

and the fires kept out of the reservations, there will not be enough in fifty years to build a West India squadron.

As I have the honor to represent the territory in which this establishment is located, I desire to have the subject fairly placed before Congress, and let them decide whether the public interest will not be promoted by the continuance of the experiment. The reports will show that there are 70,000 live oak trees upon the land purchased, which, in half a century, or even a quarter, will be worth ten times the amount ever expended upon them.

Mr. WHITE having accepted the amendment of Mr. SPRIGHT as a modification of his resolution,

Mr. HOFFMAN moved further to amend it, by adding the following:

"And all other information in the power of the department to give, relative to a production and providing a supply of live oak, and the measures taken respecting the growing thereof, and the expenses of such measures."

Mr. HOFFMAN, on offering this amendment, said, that the subject of this resolution was now before the Committee on Naval Affairs, in consequence of a reference to that committee of a part of the annual Message of the President. His object in moving this amendment was to enlarge the proposed call, so as to embrace all the information on the subject which it was in the power of the department to communicate. He was not aware, he said, whether Congress had, or had not, in any way sanctioned the policy of planting. He did not rise to express any opinion on that question at present, but only desired to have all the information which could be brought to bear upon it.

Mr. WHITE accepted the amendment.

Mr. WICKLIFFE, of Kentucky, proposed an amendment, to include also an inquiry into the measures adopted for the "preservation" of the live oak timber. He wanted to get at information on this subject. He understood that there had been a corps of overseers employed about that business for the last and several preceding years. He wished to know, from authority, what they were about.

Mr. WHITE accepted also this amendment.

The resolution, as thus amended, was agreed to, *nem. con.**

MONDAY, December 20.

Judge Peck.

Mr. HOFFMAN begged permission to trespass for a moment upon the time of the House. It would be recollected that to-day was fixed upon for proceeding in the trial of Judge Peck, in the case of that individual's impeachment before the Senate of the United States. It was, in his opinion, advisable that the House should attend, even if only in the first instance to prosecute the case before the Senate; and, with this view, he submitted the following resolution:

Resolved, That this House will, from time to time, resolve itself into a Committee of the Whole to attend in the chamber of the Senate on the trial of the impeachment against James H. Peck, a judge of the United States district court for the district of Missouri.

Mr. HOFFMAN said, in support of his resolution, that it was not dictated by any spirit of idle curiosity to witness the proceedings in the Senate chamber on so solemn and interesting an occasion, but from an anxiety to ascertain the principles upon which such an important matter was to be conducted, in order that the presence of the House, before the highest tribunal in the Union, might give effect to a case which would be a subject of discussion throughout the country, and which would form part of our public history. The trial of an impeachment was a proceeding of a grave nature; it was never instituted but for the purpose of punishing those offences which the ordinary laws could not reach; and as such, it was, perhaps, better that it should be attended with all the solemnity possible; besides, such would be the interest manifested to witness its progress, that it was doubtful to him whether they should be able to obtain a quorum in that House during the time that the proceedings upon it were carrying on in the Senate.

Mr. DWIGHT said he concurred with the gentleman from New York (Mr. HOFFMAN) in the propriety of the House attending during the trial; but this resolution seemed to imply the necessity of its continual attendance. He was desirous the House should meet at eleven o'clock, in order to give the House one hour for their own business.

After some remarks from Messrs. WICKLIFFE and BUCHANAN, who stated that the Senate were waiting for the appearance of the managers, and the proposition of an amendment to the resolution by Mr. DWIGHT, which was subsequently negatived,

Mr. POLK moved to amend the resolution, by inserting "this day," instead of "from time to time;" and this was accepted by the mover as a modification, as this would give the House an opportunity of discussing the question of its continual attendance, to-morrow.

Mr. PETTIS objected to the attendance of the House in the Senate chamber, which he conceived to be entirely unnecessary. There were two or three hundred bills already on their table, which it would, he thought, be better to dispose of, with the utmost promptitude. As to not having a quorum present for the despatch of the public business, should such be the case, it would be easy to try the effect of a call of the House. Upon the question of the adoption

*It is now thirty years since this live oak cultivation policy commenced, and it would be instructive to inquire how much has been expended in pursuit of this policy, and what benefit has been derived from these plantations.

of the resolution, he should call for the yeas and nays.

Mr. DODDRIDGE moved to lay the resolution upon the table. Negatived.

The resolution of Mr. HOFFMAN was then carried; and,

On motion of Mr. WICKLIFFE, the House resolved itself into a Committee of the Whole, Mr. DRAYTON in the chair, and repaired in procession, accompanied by their officers, to the Senate chamber, where, having been seated, the impeachment was proceeded in.

The Representatives, after some time, having returned to their own hall, in like order, and Mr. DRAYTON having reported, on motion of Mr. WHITTLESEY, it was resolved, that when the House adjourned, it should adjourn till eleven o'clock to-morrow.

TUESDAY, December 21.

Silk Manufacture.

Mr. SPENCER, from the Committee on Agriculture, to which was referred the letter of P. S. Duponceau, presenting to the House a flag of American silk and manufacture, made the following report:

"The Committee on Agriculture, to which was referred the letter of Peter S. Duponceau, to the Speaker of the House, announcing his presentation to the House of a silken flag, bearing the colors of the United States, made of American silk, reeled from cocoons, and prepared and woven by John D'Homergue, silk manufacturer the entire process in the manufacture, of the same having been performed in the city of Philadelphia, report:

"That they consider this specimen of American industry, applied for the first time to the production of a fabric in such general use in the United States, in the purchase of which, in foreign countries, several millions of dollars are annually drawn from this country, as highly auspicious to the agriculture and arts of the United States; and that Mr. Duponceau, for his patriotic exertions in promoting the culture of silk, and in his efforts to excite the attention of the people of the United States to that important branch of industry, deserves the commendation of his country. The committee have received a communication from Mr. Duponceau, detailing various important facts and remarks in reference to the bill entitled 'An act for promoting the growth and manufacture of silk,' which they have appended to this report for the information of the House; and the committee report a resolution, and recommend its adoption by the House.

"*Resolved*, That the flag, bearing the colors of the United States, presented to this House by Peter S. Duponceau, of Philadelphia, made of American silk, and prepared and woven by John D'Homergue, silk manufacturer in the city Philadelphia, be accepted by this House, and that it be displayed, under the direction of the Speaker, in some conspicuous part of the hall of sittings of this House."

Mr. ALEXANDER moved that the report and letter therein referred to, lie on the table, and be printed.

Mr. WHITTLESEY called for a division of the question; and the question being put to lay the report, &c., on the table, it was decided in the negative—yeas 45, nays 74.

The question was then put on the adoption of the resolution submitted by the committee, and it was determined in the affirmative.

Subsequently, the report and letters were ordered to be printed.

The Impeachment.

Mr. STORRS, of New York, rose to ask, for his own information, whether it was expected that the managers, in the absence of the House, were to conduct the trial of the impeachment against Judge Peck. The hour for the trial had now arrived, and it was necessary for the House to take some order on the subject.

Mr. HOFFMAN hoped that the same course would be pursued by the House to-day, as was taken by it yesterday; and he accordingly submitted, for the consideration of the House, the same resolution that was yesterday adopted by the House.

The resolution was then read, and agreed to.

On motion of Mr. STRONG, the House agreed to meet to-morrow at eleven o'clock.

On motion of Mr. HOFFMAN, the House then resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair; and,

On motion of Mr. TAYLOR, the House, as a committee, proceeded to the Senate chamber, further to attend the trial of the impeachment against Judge Peck; and, after about two hours and a half spent therein, the committee returned to the hall, and the Speaker resumed the chair.

Mr. CAMBRELENG, from the said Committee of the Whole, reported that the committee had, according to order, again attended the trial of the said impeachment in the Senate, and that the court had adjourned till to-morrow at twelve o'clock.

WEDNESDAY, December 22.

The Impeachment.

Mr. DWIGHT submitted a resolution, in substance, requiring the House to meet each day at eleven o'clock during the trial of the impeachment of Judge Peck; and that at twelve o'clock it would resolve itself into a Committee of the Whole, and proceed to the Senate for the purpose of attending the trial.

Mr. WHITE, of New York, called for the yeas and nays on the adoption of the resolution, and they were ordered by the House.

Mr. PETTIS opposed the resolution. He said that a resolution was offered at the last session of the House to attend on the trial, but the House only attended one day. When the gentleman from New York (Mr. HOFFMAN) offered his resolution on Monday, there was no time for discussion. Yesterday, the House pursued the same course as on Monday. He hoped the resolution would be rejected, if for

no other reason than that the proceeding was wholly unnecessary. If the House had no business before them, gentlemen might indulge their curiosity in attending the trial in the Senate. For himself, he had no such curiosity. There was a great number of bills on the docket, which required the action of the House; it was a short session; and, if the House attended every day in the Senate during the trial, there would be little or nothing else done. He thought the interest of the people of the United States generally should be taken into consideration; the House had appointed able managers to conduct the impeachment; and these managers had declared that it was not necessary for the House to attend. Why should we go? asked Mr. P. Why neglect the public business to gratify our own curiosity? Mr. P. concluded by expressing the hope that the House would not be compelled to go to the Senate in a body.

Mr. DWIGHT said that the gentleman who had just taken his seat, had remarked that, in attending the trial of the impeachment, gentlemen wished to indulge their own curiosity. Let me ask, said Mr. D., if the Representatives of the nation have not a higher motive for doing so? Were not the House bound to attend in the fulfilment of their constitutional functions? Mr. D. apprehended that the public business might be attended to, and yet the House be able to attend on the trial.

After a few words from Mr. PETTIS,

Mr. CLAY moved to amend the resolution of Mr. DWIGHT, by inserting the words "until otherwise ordered;" so that the House should at any time have the power to rescind the resolution.

Mr. DWIGHT accepted the amendment as a modification of his resolution.

Mr. DODDRIDGE preferred the resolution originally offered by Mr. HOFFMAN on Monday last, and moved its consideration as a substitute for that this day offered by Mr. DWIGHT.

After some remarks by Messrs. DODDRIDGE, HOFFMAN, and STRONG, the amendment was rejected.

Mr. DRAYTON then moved an amendment; which he supported in a few words: when

Mr. HAYNES, believing that the opinion of the members was made up on the subject, called for the previous question. The call was sustained by the House—yeas 90.

The previous question was then put, in the following words, viz.: "shall the main question be now put?" and decided in the affirmative.

The main question being then put, viz., on the adoption of the resolution offered by Mr. DWIGHT, it was decided in the negative—yeas 84, nays 87.

So the House decided to leave to the managers the conducting of the impeachment against Judge Peck.

The bill to establish certain post roads, and to discontinue others coming up as the order of the day, it was, on motion of Mr. DANIEL, in consequence of the necessary absence of Mr. WICKLIFFE, who offered a proviso to it on Friday last, ordered to lie on the table.

The House then went into Committee of the Whole, Mr. MAGEE in the chair, and took up the bill for the relief of Bernard Kelly, of Georgia. The report of the committee and the evidence in the case were read. The bill was supported by Mr. THOMPSON and Mr. FOSTER, of Georgia, and Mr. JOHNSON, of Kentucky, and opposed by Mr. WHITTLESEY and Mr. STERIGERE; the latter of whom moved to strike out the enacting clause of the bill.

The motion was negatived; whereupon, the committee rose, and reported the bill to the House without amendment.

The bill was then ordered to be engrossed for a third reading, by yeas and nays—yeas 71, nays 49.

THURSDAY, December 23.

Navy Yards.

The following resolution, yesterday submitted by Mr. PEARCE, was taken up for consideration:

"*Resolved*, That the Secretary of the Navy be directed to report to this House the annual sum necessary to maintain a navy yard for building and equipping of ships with despatch, under the present navy regulations, with the probable annual amount of deterioration of buildings, and interest of the money disbursed in the erection of buildings necessary for a navy yard."

Mr. HOFFMAN (Chairman of the Naval Committee) said he should like to hear some reasons offered for the adoption of the resolution.

Mr. PEARCE replied that he would gratify the gentleman. He assured him that he had not acted unadvisedly in submitting the motion; for he had taken the pains to consult with the Secretary of the Navy, and it was offered with his approbation. The subject had been brought before Congress at the last session; the number of navy yards was then stated to be too great; and it was manifest that if there were more navy yards than was necessary for the public interest, that the expense to the nation of supporting them was greater than it need be. He believed that the expense of maintaining the several yards amounted to $300,000 annually. The object of the resolution was to obtain such information as would enable the House to act understandingly when the matter should be brought before it.

Mr. HOFFMAN stated that, by a resolution of the House, the Committee on Naval Affairs already had the subject before them; and he hoped the gentleman from Rhode Island would consent that the resolution should lie on the table until he, Mr. H., could confer with the committee. He thought it probable he should be able to do so to-morrow.

Mr. PEARCE remarked that he had no great objection to the resolution lying on the table

for a day or two; but the House would recollect that this would be a short session, and that the information was wanted for the action of the House. Certainly no disrespect was intended towards the Committee on Naval Affairs; and he trusted that the gentleman would agree to the reference at this time.

Mr. HOFFMAN said that the information now sought could be obtained through the Committee on Naval Affairs. He thought the adoption of the Resolution wholly unnecessary, and would conclude by moving that it lie on the table.

The motion was agreed to.

The Impeachment.

Mr. HAYNES submitted the following resolution:

Resolved, That, during the trial of the impeachment now pending before the Senate, this House will meet daily at the hour of eleven o'clock in the forenoon; and that, from day to day, it will resolve itself into a Committee of the Whole, and attend said trial during the continuance thereof, and until the conclusion of the same.

In support of this motion,

Mr. HAYNES said, whatever difference of opinion there might have been on this subject before, the proceedings of yesterday must convince every gentleman of the expediency of the course now proposed. Whilst the House yesterday found itself without a quorum, he saw that among the absentees were gentlemen who had voted against the proposition for attending the court of impeachment. He meant not to charge any members with impropriety on this account, but mentioned the fact to show the expediency and propriety of passing this resolution. It appeared to him, indeed, to be a singular proceeding, on the part of this House, that when the only precedent in existence was in favor of the course proposed in the resolution now under consideration, the House should have refused to adopt it. Could it be pretended that there was any difference in the magnitude of the present case and the former case of impeachment, which justified different forms of proceeding in the two cases? He presumed not. The same personal liberty, and the same inalienable rights, guaranteed by the constitution of our country, were involved in this case as in that of the impeachment of Judge Chase. Without going unnecessarily into the merits of the case, or consuming one moment of the time of the House, Mr. H. hoped that his motion would prevail.

Mr. TUCKER considered it to be the duty of gentlemen to continue in the House, and attend to the public business of the nation; and, if any member chose to attend the trial, let him account to his constituents for his neglect of duty. He should be very sorry if the resolution was agreed to; and he called for the yeas and nays on its adoption.

Mr. HAYNES would ask the gentleman from South Carolina how members of this House were to account for it to their constituents, if, in consequence of the absence of so many members from the House during the trial, some legislation should be defeated which ought to succeed, and some succeed which ought to fail. In looking at this matter, Mr. H. said he viewed it as a practical question. Every one must know what an interest would be excited and felt in this trial at almost every moment of it, and that it would be impracticable for this House to transact business whilst that court was in session.

Mr. TUCKER replied: If blame should attach, it would be to those who had not discharged their duties, by remaining in the House. If any important measure should be adopted, affecting the interests of the constituents of members during their absence from the sittings of the House, let those members account for it as they best could. He should attend to what he conceived to be his duty.

Mr. PETTIS, of Missouri, rose to ask the favor of the House to allow this question to be taken by yeas and nays. Whilst up, he would make one remark. The gentleman from Georgia complained that a quorum could not be kept yesterday. But, said Mr. P., when it was doubted whether there was a quorum, it was found, on the Speaker's count, that there was a quorum. Experience sufficiently proved that a quorum could not be got to attend the court; for, on the last attendance of the House, the honorable Speaker and the chairman of the Committee of the Whole, when they returned from the court to the House, returned almost alone, two or three members only returning with them. The root of all difficulty in this matter was, in fact, the indisposition of members to do the business of the House.

The House refused to sustain the call for the yeas and nays; and the question being taken on the adoption of the resolution of Mr. HAYNES, it was decided in the affirmative—ayes 96, noes 60.

So the House determined to attend the trial of the impeachment of Judge Peck.

Judge Peck.

The hour of twelve having arrived, Mr. BUCHANAN rose and said, that, as the House had determined upon attending the trial of the impeachment of Judge Peck, he would make a motion that it now go into Committee of the Whole for the purpose. He did not vote for the resolution which had been this day adopted, on the motion of the gentleman from Georgia; yet, as the House had resolved on attending the trial in the Senate, he thought it ought to be punctual in its attendance.

The SPEAKER observed that he considered it to be the duty of the Senate to notify the House on each day, when it was ready to proceed in the trial.

The House accordingly resolved itself into a Committee of the Whole, Mr. CAMBRELENG in

the chair, and proceeded to the Senate to attend the trial of Judge Peck.

Having returned, Mr. CAMBRELENG reported progress; and thereupon the House adjourned.

FRIDAY, December 24.

Mr. JOHNS, after a few introductory remarks, moved that the resolution yesterday adopted, on the motion of Mr. HAYNES, that the House do, from day to day, attend the trial of the impeachment of Judge Peck, be reconsidered; and on his motion he called for the yeas and nays, and they were ordered by the House.

Mr. POLK said, that in the first instance he had opposed a resolution of the kind, considering it unnecessary for the House to attend the trial of the impeachment. The House, on the occasion to which he alluded, rejected the resolution offered by the gentleman from Massachusetts, (Mr. DWIGHT,) and on that day did not attend—yesterday they did. The Senate had been notified that this House would attend during the trial, and he was anxious that the House, though the resolution was adopted against his wishes, yet, being adopted, should preserve a proper degree of consistency. He considered it of no importance that the House should attend the trial; they would adjourn to Monday; and if, on that day, a majority should determine against attending, why, be it so; but let us not be blown about by every breeze. Mr. P. moved to postpone the question of reconsideration to Monday next.

Mr. JOHNS making no objection, his motion was postponed by general consent.

The House again resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair, and proceeded to the Senate chamber for the purpose of attending the trial of the impeachment of Judge Peck. Having returned to their hall, the committee reported progress, and the House adjourned to Monday.

MONDAY, December 27.

Judge Peck.

The hour of twelve having arrived, Mr. BUCHANAN moved that the House do now resolve itself into a Committee of the Whole, for the purpose of attending the trial of the impeachment of Judge Peck; which motion was agreed to.

Mr. CAMBRELENG was again called to the chair, and the committee proceeded to the Senate Chamber. Having afterwards returned to their hall, the committee reported further progress.

THURSDAY, December 30.

The House resumed the consideration of the resolution of Mr. HOWARD, ordering the printing of certain reports; the amendment proposed yesterday by Mr. CAMBRELENG being under consideration—

Mr. WAYNE observed that, when the hour expired yesterday, he was about to state the distinction between the resolution of the gentleman from Maryland and the gentleman from New York. There was no such difference between them as would justify the House in rejecting the one and adopting the other. If the object of the gentleman from New York, in submitting his amendment, was to inform the public of Mr. Jefferson's opinions, on a certain subject, in '93, upon what principle will the House reject his amendment, and adopt the resolution of the gentleman from Maryland, when it calls for the doctrines promulgated by the same in 1803? And that, too, when the avowed object of the gentleman from Maryland is not to enlighten the public mind, but to subserve party purposes. The object of the gentleman from Maryland was to prove that Mr. Jefferson, and the party that came with him into power, were in favor of the protective system. Mr. W. had no objection to the resolution, and he would vote for it, whether the amendment of the gentleman from New York was adopted or not.

He would vote for it because there could be nothing tortured out of these reports to prove that Mr. Jefferson, or his friends had, at any time, conceded the power in question. Mr. W. said he was not now disposed to enter into a discussion of that question: but, when he saw an attempt made to impress the belief that Mr. Jefferson was in favor of certain doctrines, he felt bound to correct, as far as he could, the erroneous impression. Such a proposition was never distinctly affirmed by Mr. Jefferson, nor by his Secretary of the Treasury, Mr. Gallatin. He would acknowledge that duties were imposed on foreign articles during Mr. Jefferson's Administration; but it was equally well known, that the express object of that tariff was, not as a bounty to domestic manufactures, but to liquidate the national debt. Sir, said Mr. W., in looking over Mr. Gallatin's reports, I have found no evidence whatever, of the slightest interference with this subject. In one of Mr. Jefferson's Messages to Congress he alluded to the encouragement of such manufactures as would render us independent. A general proposition was made in Congress to refer this part of the message to a committee, in order to see what might be necessary to supply the wants of the military establishment.

A debate arose on this subject, in which the strong ground was taken, that Congress had no power to act on the subject, and that it was strictly confined to revenue bills. From these circumstances, Mr. W. thought it a matter of inference, not to be resisted, that, so far as the character of Mr. Jefferson's Administration is concerned, there is no support to be obtained for the protective system. He did not say that all Mr. Jefferson's friends were opposed to it. As he said before, Mr. W. was indifferent, himself, whether the amendment of the gentleman from New York was adopted or not. He would vote both for it and the resolution.

The gentleman from Maryland wishes to call up reports of this House in 1802–'3 and '4, to prove that Mr. Jefferson, and the party in power with him, were in favor of the protective system. Why not, said Mr. W., suffer Mr. Jefferson's own report, on the same subject, to be given to the public? Why not permit him to speak for himself? He believed the reports were only to be found in the library of Congress.

Mr. DRAYTON said he was not disposed to make any remarks on the merits of the reports called for, either by the gentleman from Maryland, or the gentleman from New York. The House, he observed had no right to adopt either tho resolution or the amendment. He had no doubt but all would recollect a joint resolution passed last session, prohibiting the expenditure of the contingent fund for any printing, other than that called for by the current business of either House. All other printing must be paid for out of the Treasury, or by the ordinary process of an appropriation bill. He would, for the satisfaction of the House, ask the Clerk to read the joint resolution to which he alluded. And, after it had been read, Mr. D. moved that the resolution and amendment be referred to the Committee on the Library; and the question being put, it was agreed to.

Mileage of Members.

Mr. CHILTON submitted the following resolution:

Resolved, That a Select Committee be appointed, with instructions to inquire into the expediency of adopting some uniform mode for computing the distance for which members of Congress shall be allowed compensation for mileage to and from the seat of Government; and that said committee have leave to report by bill or otherwise.

Mr. CHILTON said that he had not offered the resolution with a view to cast any imputation on honorable members. Neither had he offered it from electioneering motives, or with a view to home consumption. That there was a great disparity, at the present time, in the computation of the mileage of members, could not be denied. As an example, he would state that, of two gentlemen both living in the same section of the country, one had, by a difference in the computation of mileage, received a difference in amount of one-half. In 1825, the mileage of the two Senators from Missouri, both residing in St. Louis, so varied, that one received $1,700 and a small fraction, while the other received $3,300 and a large fraction. He had made it his business to examine into the subject, and he had discovered many inequalities in the payment of the mileage of members, which, in his opinion, called loudly for the interposition of the House, so that an equality might be established amongst members. He wished the resolution to be referred to a committee; but, if the House did not consider it a matter of sufficient importance to take this course, he was satisfied. If they saw proper to take up the subject, it would consume but little time.

Mr. CAMBRELENG did not think the resolution of sufficient importance for the appointment of a Select Committee, and suggested to the mover to refer it to the Committee on the Post Office and Post Roads.

Mr. CHILTON only wanted some order taken upon the resolution by the House, and declared his readiness to agree to the proposed modification.

Mr. WICKLIFFE said it would be recollected that, at the last session of Congress, the House of Representatives had passed a bill on this subject, which had not been acted upon by the Senate; and he was much astonished at hearing of some of the reasons which were assigned in that body why the bill should not pass. [The SPEAKER said it was not in order to allude to proceedings in the Senate Mr. WICKLIFFE: Not to proceedings of the last session? The SPEAKER: No, sir. Mr WICKLIFFE: If we have no right to refer to proceedings of either House at former sessions of Congress, I am of opinion that the parliamentary rules ought to be amended.] What he had risen to suggest, however, was, that the Committee on Public Expenditures appeared to him the most proper committee to refer the subject to.

Mr CHILTON said he had no objection to such a reference of it.

Mr JENNINGS, after a few observations, moved to lay the resolution on the table.

Mr. CHILTON called for the yeas and nays on the motion, and they were ordered by the House.

Mr. ELLSWORTH called for the reading of the present law on the subject of the mileage of members, and the law was read by the Clerk.

The question was then taken on laying the resolution on the table, and decided in the negative, by yeas and nays, as follows:

YEAS.—Messrs. Anderson, Barnwell, Buchanan, Dudley, Edward Everett, Gurley, Hammons, Haynes, Hinds, Jarvis, Jennings, Kennon, Norton, Henry R. Storrs, Vinton, Edward D. White, Wilde—17.

NAYS.—Messrs. Alexander, Alston, Angel, Archer, Armstrong, Arnold, Bailey, Noyes Barber, Barringer, Bartley, Bates, Baylor, Beekman, Bell, James Blair, John Blair, Bockee, Boon, Borst, Brown, Cahoon, Cambreleng, Carson, Chandler, Chilton, Claiborne, Clay, Clark, Coke, Coleman, Condict, Conner, Cooper, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Crocheron, Crowninshield, Daniel, Davenport, Warren R. Davis, Denny, Desha, De Witt, Dickinson, Doddridge, Draper, Drayton, Duncan, Dwight, Eager, Earll, Ellsworth, George Evans, Joshua Evans, H. Everett, Findlay, Finch, Ford, Forward, Foster, Fry, Gaither, Gilmore, Gordon, Green, Grennell, Hall, Halsey, Harvey, Hawkins, Hodges, Holland, Hoffman, Howard, Hubbard, Hunt, Huntington, Ihrie, Ingersoll, T. Irwin, W. W. Irvin, Johns, Richard M. Johnson, Cave Johnson, Kendall, Kincaid, Perkins King, Adam King, Lea, Leavitt, Lecompte, Lent, Lewis, Loyall, Lumpkin, Lyon, Magee, Marr, Martindale, Martin, Thomas Maxwell, Lewis Maxwell, McCoy, McDuffie, McIntire,

Mercer, Mitchell, Muhlenberg, Nuckolls, Patton, Pearce, Pettis, Pierson, Polk, Potter, Randolph, Reed, Rencher, Richardson, Roane, Russel, Sanford, Scott, W. B. Shepard, A. H. Shepperd, Shields, Semmes, Sill, Smith, Speight, Ambrose Spencer, Sprigg, Standifer, Sterigere, William L. Storrs, Strong, Swann, Swift, Taylor, Test, Wiley Thompson, John Thomson, Tracy, Trezvant, Tucker, Vance, Varnum, Verplanck, Washington, Wayne, Weeks, Whittlesey, Wickliffe, Williams, Yancey, Young—160.

The question was then put on the adoption of the resolution, and it was agreed to.

MONDAY, January 3, 1831.

Denmark and the United States.

The Speaker laid before the House the following Message from the President of the United States:

To the House of Representatives of the United States:

I transmit herewith to Congress the copy of a correspondence which lately passed between Major General Von Scholten, his Danish Majesty's Governor General of his West India possessions, and special minister to the United States, and Mr. Van Buren, Secretary of State, concerning the regulation of the commercial intercourse between those possessions and the United States; which comprehends the propositions that General Von Scholten made to this Government, in behalf of his sovereign, upon that subject, and the answers of the Secretary of State to the same, the last showing the grounds upon which this Government declined acceding to the overtures of the Danish envoy.

This correspondence is now submitted to the two Houses of Congress, in compliance with the wish and request of General Von Scholten himself, and under the full persuasion, on my part, that it will receive all the attention and consideration to which the very friendly relations that have so long subsisted between the United States and the King of Denmark, especially entitle it, in the councils of this Union.

ANDREW JACKSON.

WASHINGTON, *December* 31, 1830.

The Message was read, and, together with the documents accompanying it, referred to the Committee on Commerce, and ordered to be printed.

British Colonial Trade.

The Speaker also laid before the House the following Message from the President of the United States:

To the House of Representatives of the United States:

I communicate to Congress the papers relating to the recent arrangement with Great Britain with respect to the trade between her colonial posessions and the United States, to which reference was made in my message at the opening of the present session.

It will appear from those documents, that, owing to the omission, in the act of the 29th of May last, of a clause expressly restricting importations into the British colonies in American vessels to the productions of the United States; to the amendment engrafted upon that act in the House of Representatives, providing that, when the West India colonies should be opened, the commercial intercourse of the United States with all other parts of the British dominions or possessions should be left on a footing not less favorable than it now is; and to the act not specifying the terms upon which British vessels coming from the Northern colonies should be admitted to entry into the ports of the United States; an apprehension was entertained by the Government of Great Britain, that, under the contemplated arrangement, claims might be set up on our part, inconsistent with the propositions submitted by our minister, and with the terms to which she was willing to agree; and that this circumstance led to explanations between Mr. McLane and the Earl of Aberdeen, respecting the intention of Congress, and the true construction to be given to the act referred to.

To the interpretation given by them to that act, I did not hesitate to agree. It was quite clear that, in adopting the amendment referred to, Congress could not have intended to preclude future alterations in the existing intercourse between the United States and other parts of the British dominions; and the supposition that the omission to restrict, in terms, the importations to the productions of the country to which the vessels belong, was intentional, was precluded by the propositions previously made by this Government to that of Great Britain, and which were before Congress at the time of the passage of the act; by the principles which govern the maritime legislation of the two countries, and by the provisions of the existing commercial treaty between them.

Actuated by this view of the subject, and convinced that it was in accordance with the real intentions of Congress, I felt it my duty to give effect to the arrangement, by issuing the required proclamation, of which a copy is likewise herewith communicated.

ANDREW JACKSON.

WASHINGTON, *January* 3, 1831.

The Message was read, and, together with the accompanying documents, were referred to the Committee on Commerce, and 6,000 copies ordered to be printed.

The House then adjourned.

TUESDAY, January 4.

The Fifth Census.

Mr. STORRS, from the Select Committee appointed on the President's Message relative to the fifth census, reported the following bill:

"*Be it enacted*, &c. That it shall and may be lawful for such of the assistants to the marshals in the respective States and Territories, who have not, before the passage of this act, made their respective returns to such marshals, under the act hereby amended, to complete their enumerations and make their returns under the said act, at any time before the 1st day of June, 1831: *Provided*, That nothing herein contained shall be deemed to release such assistants from the penalties contained in the act aforesaid, unless their returns shall be made within the time prescribed in this act."

Mr. STORRS moved that the bill be ordered to be engrossed for a third reading, observing that there were but three cases of failure to make the returns within the requisite time for which the bill was intended to provide; namely, from one county in Tennessee, one county in Indiana, and two of the wards of the city of New York.

Mr. BELL, of Tennessee, desired to know whether the passage of the bill was intended to interfere with the apportionment, at the present session, of the ratio of representation under the new census; because, as the Legislature of Tennessee sits but once in two years, a postponement of the appointment would prove inconvenient to that State, and he found that the time of completing the census, and making returns, was extended to June next.

Mr. STORRS explained. The instructions from the Department of State to the marshals were limited to the 1st of December for making their returns of the enumeration. The instruction was such a one as no clerk in the Department ought to have taken upon himself to issue; because, although the law itself made that limitation the instruction from the Department, the deputy marshals would probably not have discontinued the enumeration, as appears to have been the case, when it was discovered that it could not be completed within the precise time fixed by the act. Having been informed by the clerk in the Department having charge of the business, that no return would be received after the 1st of December, the deputy marshals had ceased the enumeration at that time; so that the Secretary of State must now have time to communicate with those marshals before they will resume the enumeration. In regard to the apportionment of representation under the new census, this bill ought not to interfere with or delay that object at all. In 1820, the returns were not entirely complete, yet the appointment was fixed, so far as the returns were received; and afterwards, when the additional returns from Alabama came in, a supplemental law gave that State the benefit of it. Mr. S. said he should, in a very few days, move to take up the apportionment bill, which should be passed at an early day, or the delay might produce to some of the States the inconvenience of an extra session of their Legislature, to arrange their representation under the new apportionment.

Mr. WHITTLESEY moved to strike out of the bill the following words: "unless their returns shall be made within the time prescribed by this act;" but the amendment was opposed by Mr. STORRS, and was negatived.

On motion of Mr. BAILEY, the following additional proviso was added to the bill:

"*And provided further*, That no person be included in the returns made under the present act, unless such persons shall have been inhabitants of the districts of which such returns shall be made on the 1st day of June, one thousand eight hundred and thirty."

Thus amended the bill was ordered to be engrossed for a third reading to-morrow.

Railroad from Baltimore to Washington.

The bill authorizing the construction of a lateral branch of the Baltimore and Ohio railroad to the city of Washington, came up for consideration; when

Mr. SEMMES submitted the following amendment:

SEC. 1. *And be it enacted*, That the said road shall be located over such ground, and have such course and direction, as engineers, authorized and appointed by the Government, shall determine and advise.

SEC. 2. *And be it enacted*, That the said company shall not make any higher charges for tolls or transportation on any part of the road to be constructed between Baltimore and the District of Columbia, than are allowed by law for tolls and transportation from west to east, on the Baltimore and Ohio railroad, except as authorized by the second section of this act.

SEC. 3. *And be it enacted*, That unless the said road between Baltimore and the District of Columbia is commenced within one year from the passage of this act, and finished within three years thereafter, this act, and all the privileges which it confers on the Baltimore and Ohio Railroad Company, shall cease, and be entirely void and of no effect.

Mr. SEMMES said, it became his duty, as one of the Representatives of Maryland, which has so deep an interest in the proposed measure, to make a few brief remarks in support of the amendment he had offered. Not anticipating that this bill would be called up to-day, said he, I regret that I have not had time for reflection, which would enable me to do that justice to the subject which its great importance demands.

This is a great national work, one which is to affect the interest of the whole United States, and therefore demands our most serious consideration; and it becomes the duty of Congress, whilst it has the power, to bestow that attention which will enable us to protect and promote the interests of the whole country.

The construction of works of this character may, in common cases, be safely confided to the discretion of the corporation which has charge of the undertaking, because their private and individual interest is, generally speaking, the surest guaranty of their fidelity; but the case now under consideration forms an exception to this general rule. The work in question is of great national importance, and promises to be one of the most profitable investments of money that can be made anywhere in this country; whilst many rich and powerful persons, with great resources and influence, and having opposite and conflicting interests, are engaged in it, and have the control of the corporation which is to construct it: for these gentlemen, personally and individually, I have great respect, and would as soon confide in their integ-

rity and disinterestedness, as in those of any other company in existence; but, under existing circumstances, it becomes the duty of Congress, as the guardians of the public welfare, to give such a direction to the proposed improvement as will effectually promote the public interest.

The amendment I have offered, embraces three distinct propositions. The first is, that the road shall be made in such manner and over such ground, and in such course or direction, as engineers appointed by the Government of the United States shall advise and determine. To this proposition, I presume there can be no objection: because the United States engineers have been largely employed in locating the main track of the Baltimore and Ohio railroad, and may safely be trusted with the location of this lateral branch, whilst the peculiar circumstances of the case under consideration render such a provision indispensably necessary. The tribunal which is to decide on the location of this great and important national road, ought to be placed above the reach and even above the suspicion of local feeling and private interests, more especially since there are so many conflicting and opposing interests engaged in the undertaking. Take, for example, the Baltimore end of the proposed road; three different routes are spoken of, and all have powerful support from the individuals whose local and private interests are to be affected by it.

The first of these routes, the one which is supposed to be the most direct, will cross the Patapsco River at Elkridge landing, at or near Smith's bridge; the second will cross the river at the Patterson viaduct, and the third will pass by Ellicott's mills. Which of these routes ought to be preferred, I am unable to say; there is a strong party in favor of each one, and, no matter which is selected, there will be much dissatisfaction and complaint, unless the selection be made by some independent and impartial tribunal in whom all have confidence. Such, I suppose, we may consider a board of engineers appointed by the President of the United States. This appears to be almost the only security we have that the location will be made with a view to the public good, and the public good only. Again, let us look at the District end of this road, and here we find the same kind of difficulties and embarrassments. Whether the road will enter Georgetown or Washington, or at what point of either city it will enter, is a matter of doubt and uncertainty. There are several practicable routes, all of which have their advocates; and at present it is uncertain whether the road will diverge to the west, and pass through Anne Arundel and Montgomery to Georgetown, or whether the facilities for construction are such as to permit it to proceed in nearly a direct line to this city, where, in my humble opinion, it ought to come, if practicable; but of one thing we are certain, that each interest will endeavor to have that route selected, which will best promote its own particular views. Such, sir, is the nature of man, and we may talk as much as we please about patriotism and disinterestedness, but self-interest is the great moving principle which governs mankind, and most of us will obey its impulses.

I confess that I do not even pretend to rise above this feeling, but, like other men, am anxious to promote what I believe to be the best interests of those who sent me here. I believe that, on examination by competent persons, the most advantageous route will be found to pass through the very heart of my district, and will advance the local interests of my constituents; believing this, as well as for general reasons of a public nature, I am anxious that an impartial and independent tribunal, which has no local interests or local feelings to gratify, shall designate the route; and if I am disappointed, I will most cheerfully submit, and I risk nothing in making the same pledge for those I represent. The House will perceive by the bill, that this road is also intended for the transportation of the United States mail; this increases the interest of the Government in the undertaking, and is a strong argument in favor of the amendment I have offered, because, if it be intended for a mail route, the saving of a few miles is of immense importance.

The second proposition is, that there shall be no higher charges for tolls or transportation than are allowed by law to the Baltimore and Ohio Railroad Company for tolls or transportation from west to east. This requires some explanation. By the charter of the Baltimore and Ohio Railroad Company, different rates of toll are allowed. From west to east, they are limited to one cent a ton per mile for toll, and three cents a ton per mile for transportation; while, from east to west, they have the power to charge three cents a ton per mile for toll, and the same for transportation—making an average difference of fifty per cent. This was right and proper in the original charter. The work is the most splendid and important of any thing of the kind of which we have any account, requiring great resources and much risk, and, after all, could only be regarded at the time as an experiment of doubtful character. Under these discouraging circumstances, it was necessary to grant a strong and liberal charter, holding forth great inducements to men of capital and science to embark in the enterprise; whilst the great difficulties to be encountered in making the road from Baltimore to the Ohio, and the large expenditures necessary to procure the engines, vehicles, and other fixtures, to transport heavy articles up a continued ascent over the mountains, induced the Legislature of Maryland to grant this additional fifty per cent. as a fair remuneration for the additional trouble and expense. But similar reasons do not now exist. The proposed road will pass through comparatively a level country. The expenses of construction will be moderate, and the necessary vehicles and propelling power can be easily and cheaply obtained; therefore, the

lowest rate of tolls and transportation allowed to the Baltimore and Ohio Railroad Company will be an ample remuneration for the money and labor expended, and will render this the most valuable investment now to be made in the United States. The travelling on this route is already immense; and when the Chesapeake and Ohio Canal is completed, and this District filled with a population probably greater than that of the city of New York, the travel and transportation will so greatly increase, that I know of no improvement of the kind that is likely to prove so valuable to the proprietors.

The third proposition which I have submitted, directs the time when the road shall commence and be completed; and provides that all the rights and privileges conferred by this bill shall be forfeited by non-compliance. It may appear rather invidious to place the company under this restriction, and I would not do so, if I did not believe that such a course is strictly correct, and not only correct, but due to the best interests of the country.

This contemplated road is a great public highway, of importance to the whole country, and ought to be constructed as soon as possible for the public convenience; at the same time, it holds forth great advantages to the proprietors. It is right and proper that the Baltimore and Ohio Railroad Company should have the power to construct it if they please. They are the pioneers in this valuable species of internal improvement, which is likely to produce an entire change in our internal commerce, and even to change the face of the interior of the whole country. Their public spirit and enterprise have seldom if ever been equalled, and never surpassed; and they have embarked their private fortunes to a very large amount, in what at the time was considered but at best a doubtful experiment; and they have zealously and ably pushed forward this great work, till success is no longer doubtful; but although it will prove a blessing to the country at large, such have been the almost insurmountable difficulties they have had to contend with, and so great the expenditure of money, which is usually the case with a first undertaking, that it is doubtful whether it will prove profitable to the stockholders. For these reasons, sir, when we are now about to construct an addition to this great work, we ought, as liberal and generous representatives of the nation, to confer the power on the same company, who have acted as pioneers in the great undertaking, in order that the certain profits which will arise from the one work, may remunerate any losses which they may suffer by the other, which, whether it prove profitable or unprofitable to the stockholders, will certainly, when completed, and I consider that now certain, prove a national blessing. But still this amendment is necessary. Some unforeseen occurrence may prevent the construction of this road by the Baltimore and Ohio Railroad Company; if such should unfortunately prove to be the case, we ought to reserve the power, and, after a reasonable time, confer the same privileges on some other company, that will speedily construct the work; and there is no danger, even if it becomes necessary for the Legislature to create a new corporation for the purpose, but that the whole subscription can, at any time, be obtained in the city of Baltimore, in twenty-four hours. Money is cheap and plenty—it is difficult to find profitable investments, and this scheme, as I have before stated, promises to be very profitable, and will be eagerly sought after.

Assay of Gold.

Mr. CARSON offered a resolution providing that a committee be appointed to inquire into the expediency of establishing an assay office in the gold regions of North Carolina.

Mr. FOSTER suggested that Georgia also should be added to the resolution.

Mr. CARSON said perhaps it would be better to say "the gold regions in the South."

Mr. HAYNES thought that rather too extensive a range.

Mr. BLAIR, of South Carolina. We can find a little gold in our State. Suppose we add South Carolina too.

The resolution was finally adopted, with the terms, "gold regions of the South;" and the number of the committee directed to be five.

The special order of the day having been announced,

Mr. VERPLANCK moved that they be postponed, with a view of going into Committee of the Whole on the state of the Union, to take up certain appropriation bills, which it was of importance to pass.

WEDNESDAY, January 5.

Mr. TUCKER submitted the following resolutions, which he intended to offer as an amendment to the joint resolution reported by Mr. MCDUFFIE, to amend the Constitution of the United States, when that resolution shall come up for consideration:

Resolved, That no person who shall hereafter be elected President of the United States, and who shall accept the same, or exercise the powers thereof, shall be again eligible to said office.

Resolved, That any person who shall be elected President of the United States after the 4th day of March, 1833, shall hold his office for the term of five years.

Pay of Members of the House.

Mr. CHILTON, of Kentucky, submitted the following resolution:

Resolved, That the Committee on the Public Expenditures be instructed to inquire into the expediency of adopting some regulation by which members of each branch of the National Legislature shall receive the allowance of eight dollars per day only for the number of days of each session on which they shall have been in actual attendance upon the service of the House to which they may

belong—unless absent by reason of sickness, or by leave of the House, or when the same shall not be in session.

Mr. WILLIAMS, of North Carolina, inquired whether the rule proposed to be adopted by the resolve was not the same as that which is already in operation?

The SPEAKER said, that when a member of the House is absent on leave, his attendance ceases to be charged. When members are absent without leave, no account is taken of such absence, every member being presumed to be present unless absent from sickness or on leave. By the seventy-third rule it is made the duty of the Committee of Accounts, and not of the Speaker, to audit the accounts of the members for their travel to and from the seat of Government, and their attendance in the House.

Mr. CARSON, of North Carolina, inquired of the Chair what would be the precise effect of the resolution, if passed?

The SPEAKER said, it proposed, in its present shape, an inquiry only.

Mr. BARRINGER suggested the propriety of amending the resolution so as to conform to the present practice of withholding pay from such members as are absent on leave.

Mr. WHITTLESEY suggested a different modification, by inserting after the words "by leave of the House," the words "on business of the House."

Mr. CHILTON agreed to this modification, accepting it as a part of his motion.

Mr. CARSON wished to know what would be the difference between the effect of this resolution and the existing rule?

The SPEAKER said that each gentleman must decide that for himself, by comparing them.

Mr. THOMPSON, of Georgia, did not know but that there might be good ground for the complaint presented by the gentleman from Kentucky. He was himself of opinion, with the honorable mover, that members ought to be punctilious in their attendance. To carry this principle fully out, Mr. T. suggested to the gentleman to amend his proposition so as to require all members who have absented themselves to refund whatever compensation they might have received for time during which they were not in attendance. If the principle was correct, it should operate throughout.

Mr. CHILTON said that, for himself, he felt no scruple in regard to the amendment suggested; for he could confidently say that he had not been absent from the House for a single day, except when detained from it by sickness. But the subject was, he repeated, a delicate one; he thought his resolution went far enough. But, if the gentleman from Georgia inclined to go further, he would suggest to his honorable friend, in return for his suggestion, that he should move to amend the resolution accordingly.

Mr. THOMPSON declined to move any amendment to the resolution.

The question was then taken on agreeing to the resolution, and decided—yeas 157, nays 21.

So the resolve was agreed to.

Mr. JOHNSON submitted the following:

Resolved, That the Committee on the Public Lands be instructed to inquire into the expediency of amending the act of Congress, passed at the last session, entitled "An act for the relief of certain officers and soldiers of the Virginia line and navy of the continental army, during the revolutionary war," so as to change or alter the first section, as not to require evidence as to the line on which the resolution warrant of Virginia issued: also, to amend the third section, so as to embrace cases where warrants have been located and surveys or patents prohibited by law, by which the land is lost to the locator: also, to cases of surveys or patents, where, by the highest judicial tribunal of the State, or United States, the land has been taken by a prior or better claim: also, to provide for the renewal of lost or destroyed certificates or scrip: also, to change the maximum quantity of land allowed to be appropriated by the said act to supply the claims embraced by said act: lastly, to make such alterations as the said committee may consider just and equitable.

Mr. HAYNES said that the resolution appeared to be of an important nature. He certainly was in favor of a part of it, and perhaps, on examination, he should be of the whole. To give time for a proper examination of the subject, he requested the gentleman from Kentucky to consent that the resolution be laid on the table till to-morrow.

Mr. JOHNSON making no objection, the resolution took that course.

TUESDAY, January 11.

Excess of Military Cadets.

On motion of Mr. DRAYTON, it was

Resolved, That the Secretary of War be directed to communicate to this House whether the existing laws do not provide for a greater number of cadets at the United States Military Academy, than is consistent with the objects for which it was established; and, if so, that he do report a plan and organization for that academy, corresponding with the alterations and reductions which may be deemed expedient.

The motion prevailed.

Duty on Sugar.

Mr. HAYNES, of Georgia, submitted the following resolution; and remarked on offering it, that, as the subject of it was interesting to every part of the community, he hoped it would not be denied the courtesy of a consideration.

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reducing the duty on brown sugar imported into the United States from foreign countries.

Mr. RAMSEY inquired if a similar resolution had not already been offered at the present session.

The SPEAKER replied that there had been so many resolutions offered, he could not take it upon himself to answer the question.

Mr. CONDICT demanded the question of consideration.

Mr. HAYNES asked if he could have an opportunity to modify the resolution, before the question of consideration was put.

The SPEAKER answered in the affirmative.

Mr. HAYNES then modified his motion, to read as follows:

Whereas, without a considerable diminution of revenue, the public debt will, in a very few years, be redeemed and discharged: And whereas the end of republican government is the prosperity and happiness of the people: And whereas this end cannot be more certainly promoted than by a system of taxation which shall leave the largest portion of the products of labor in the pockets of the people: And whereas the necessaries of life should, as far as practicable, be exempted from taxation: And whereas brown sugar has become an article of great and necessary consumption among all classes: And whereas the present duty on that article, imported from foreign countries, bears an unjust and extravagant proportion to the original cost in foreign markets: And whereas there is good reason to believe that the tax collected by the Government, upon its importation, amounting to one million four hundred and thirty-four thousand nine hundred and sixty-one dollars and eleven cents, is less than half the sum taken from the pockets of the people under the operation of the existing duty, the quantity manufactured in the United States within the year 1830 having been estimated at one hundred thousand hogsheads, equal to one hundred millions of pounds, at three cents per pound, protecting duty equal to three millions of dollars—

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of reducing the duty on brown sugar imported into the United States from foreign countries.

On this resolution Mr. CONDICT demanded the question of consideration.

Mr. MARTIN said, if the gentleman from New Jersey, and others who sustained the tariff policy, were determined to prevent the consideration of this subject, he would suggest that their object could be effected by moving to lay the resolution on the table and printing it. That motion would prevent discussion, while, at the same time, the House and the world would see the nature and character of the resolution, in favor of which they refused to hear a single word.

Mr. DENNY renewed the demand for the question of consideration.

Mr. CAMBRELENG called for the yeas and nays on the question, and they were ordered by the House. Being taken, they stood: yeas 89, nays 85.

Mr. HAYNES then rose, and said he was glad, notwithstanding the rule which, however wisely adopted, was in its operation so well calculated to abridge the liberty of speech, that the House had extended to the resolution just offered the courtesy of consideration. He was willing to have rested the subject solely upon the resolution first offered, and, but for the apprehension of a refusal to consider it, should not have modified it by the addition of the preamble. But, as the House had, somewhat unexpectedly, afforded him the opportunity of presenting a few observations to its attention, he would not permit that opportunity to pass away wholly unimproved by him. When he had the honor to bring this subject to the consideration of the House at an early period of the present session, he had extended his proposition to the whole class of sugars, because, whether they had been imposed for the purpose of revenue or protection, he thought the time had arrived when the duties ought to be entirely abolished. But, in introducing the subject thus broadly, he did not consider that the Committee of Ways and Means would be necessarily restricted in their inquiry to the mere question of repeal; but if, in their wisdom, it should be determined that a partial reduction of the duties was all the exigencies of the country would permit, they would be authorized to go so far and no farther. For his part, he had formerly believed, he now believed, and ever should believe, that the true end of Government was the happiness and prosperity of the people; and for the furtherance of this end, it was essential that the necessaries of life should be subjected to the smallest amount of taxation which the public exigencies would permit.

Whatever might have been the original use of the article of sugar—if it was first a medicine, and then a luxury—it had become an article of essential necessity, as was proven by the estimated consumption of the present year, at one hundred and fifty millions of pounds. Nor in this character is its use confined to any particular or favored class of the community, but runs through every degree and condition in life. Nor is it any answer to this assertion to say, that some twenty-five or thirty thousand dollars of revenue has been derived from their consumption within the years 1815 to 1829, inclusive. And here he would remark, that, notwithstanding the laws of the country are accessible to all, it is important that the public mind should be enlightened upon the existing tax on sugar. But, before proceeding further with the subject, he would beg leave to remark, that how much soever gentlemen might sneer at the proposition, that, under our system of revenue, the taxes are paid by the producers, no proposition was, to his mind, more clear and undeniable, as consumption must necessarily be regulated by production. By an examination of the tariff of 1816, and reference to the annual reports from the Treasury Department upon the commerce and navigation of the United States, since that period, it would be found that the duties imposed upon the import of lump and refined sugars and sugar candy had amounted to prohibition; thus effectually depriving the consumer of any choice whatsoever between the foreign and domestic arti-

cles. Nor is this all; for inasmuch as the consumption of brown sugar among the poorer classes is much greater in proportion to their means than among the wealthy, the tax falls most heavily upon those who are least able to bear it. And here he would take the occasion to remark, that, although he still entertained the opinion, under the influence of which his resolution of the 13th of December was offered, the advice of friends, and the hope of a more favorable consideration, had induced him to narrow that resolution to its present shape. But who seeks for the repeal or reduction of taxes? Not the receiver, but the payer of taxes.

He regretted that he had no specific information as to the price of sugar in foreign countries, when the tariff of 1794 was imposed. But, if he had been correctly informed, the foreign cost of brown sugar imported into this country at that period, was not less than eight to ten cents per pound. If this be true, it is the obvious inference that Government did not then intend, by a tariff of two cents per pound, to impose a duty which should operate as more than twenty or twenty-five per cent. ad valorem on the original cost of the article. But, as the foreign cost has considerably declined since that period, thereby increasing the relation of the duty to such cost, if the duty of 1794 had not been increased by the act of 1816, it would now operate at the rate of forty to fifty or sixty per cent. ad valorem on the original foreign cost. But, by raising the duty, in 1816, to three cents per pound on brown sugar, its ad valorem operation is still greater, being not less than one hundred per cent. In the discussion of this subject, we might be told that the average price of sugar had declined in consequence of its manufacture in this country, and, therefore, sound policy requires the continuance of the present duty. If gentlemen would take the trouble to inform themselves on this subject, he was satisfied they would find that such an assertion was wholly without foundation. For his part, he had been at some pains to obtain information, the result of which was, that the price of sugar imported into England, from the year 1814 to 1823, inclusive, had undergone an astonishing diminution, no part of which could be ascribed to its manufacture in this country. By a reference to a statistical work on the population and resources of Great Britain, which he had examined, it would be found that the average price of brown sugar imported into England, in the former year, was seventy-three shillings and four pence one farthing the hundred weight, and, in the latter year, but thirty-one shillings and one farthing. Surely this could not be ascribed to its manufacture here. Nor does it appear that the price of either year depended upon a stinted supply in the one, or an excessive importation in the other, as a considerable surplus was exported in each.

And here he would repeat, substantially, what was said during the discussion of the East India sugar duty in the House of Commons, in 1823, by the late Mr. Huskisson, one of the most able and practical statesmen England has ever produced, and whose death may well be lamented in that country as a great public calamity, that, whenever there is an excess of import over consumption, the price of the article must be regulated by the markets of the world. He said, that a proposition of such obvious truth did not require the aid of illustration or argument from him. Not only had the British market exercised an influence on the price of the article, but the French market also. And here he was not prepared to speak so definitely as to the price in France, as he had done of England. Nor was it important for him to do so, as the influence exercised by the French market on the price of sugar originated principally from the partial exclusion of the article. It must be well known to every member of this House, that, during the wars of the French revolution, the sugar colonies of France were cut off from the mother country, and that although the commerce between those colonies and the mother country entered for several years very largely into the American carrying trade, yet the interpolations of national law, brought to operate upon neutrals by the principal belligerents, at length destroyed that trade entirely. Accustomed to the use of sugar, the French people were not willing to forego this necessary article of consumption, and their ingenuity soon furnished a substitute in the sugar extracted from the beet. The culture of the beet, and the extraction of sugar from it, had grown to such an extent before the general pacification of Europe in 1815, that the Government imposed a high duty on foreign sugar, for the protection of the domestic. This system had not been abandoned since the recovery of the French sugar colonies in the West Indies. Thus it was probable that a considerable portion of the sugar manufactured in those colonies was necessarily thrown upon the great market of the world. He said, if the facts and inferences upon which he had thrown himself, were true, and he did not think they could be successfully controverted, the price of sugar arising from its manufacture in this country, so far from regulating, had been regulated by the markets of the world. But, before dismissing this branch of the subject, he would observe that the price of sugar in the English market could not have been influenced by any variation of the duty, as that fluctuated between twenty-seven and thirty shillings the hundred weight, making a difference of but three shillings the hundred weight between any two years of the period to which he had referred. Nor can it be doubted that the high duty in Great Britain considerably lessens the amount of sugar consumed there, and particularly in Scotland and Ireland, thus leaving a much larger quantity for the supply of other markets, and consequently lowering its price

in those markets. But we might derive instruction on this subject, by a reference to the Treasury reports upon the commerce and navigation of this country from 1821 to 1829, inclusive. During that whole period, it would be found that the foreign cost of brown sugar imported into the United States had not varied more than about half a cent per pound, and that not by a uniformly declining price. Nor will it fail to be observed, upon an examination of the reports referred to, that the importation of brown sugar paying duty, was greater in 1829 than in 1821, and not much less than the average annual importation of the whole period. Nor might it be improper for him here to remark, that there was a considerable annual exportation with the benefit of drawback from 1821 to 1829, inclusive. If it could be necessary for him to go further to account for the gradual decline in the price of sugar throughout the commercial world within the last fifteen years, it would be sufficient to advert to the large amount of labor released from the purposes of war about the commencement of that period, and the consequent diminution of its value, in all the productions of human industry. But, as the kindness of a friend had furnished him with the means of doing so since the commencement of his remarks, he would state some additional facts bearing upon the probable causes of the diminished price of sugar within the last few years. He had brought down the price of sugar imported into Great Britain to the year 1823, and was now prepared to trace it to 1828, at the close of which it was twenty-seven shillings the hundred weight. Nor was this occasioned by diminished duty—the duty having been permanently fixed at twenty-seven shillings the hundred weight, or one hundred and twelve pounds. He was also prepared to state specifically the effect which the protection afforded in France to sugar extracted from the beet had produced on the consumption of West India sugar in that country in the year 1827—the consumption amounting, in a population exceeding thirty millions, to no more than one hundred and thirty-two millions of pounds. But, when we consider that the whole consumption of sugar in France and the British Empire in Europe, equals six hundred millions of pounds annually, (the consumption of England alone, in 1823, having been estimated by Mr. Huskisson at three hundred and sixty millions,) and reflect on the immense additional quantity necessary to supply all the countries of the world which consume the article, it must be manifest that its manufacture in the United States exercises a very insensible, if any, influence on its price either at home or abroad. But our own commercial history furnishes an instance of the decline in the price of brown sugar within a few years, as remarkable as any that has been mentioned, and that, too, without any possible reference to its manufacture in this country. If gentlemen will examine the prices current of Philadelphia for the years 1804 to 1807, inclusive, they will find that, from June of the former to the same month of the latter year, the price declined from twelve and one half, to nine cents per pound, and that, too, at a period when our foreign relations with the most powerful maritime nation in the world threatened serious interruption to our foreign trade, and consequently a diminished import of sugar. He said, that a strong additional argument against the presumption that the price of brown sugar in other countries had been influenced by the manufacture of that article in this, was, that the price of white clayed sugar, an article not of American manufacture, had experienced a corresponding decline. He had ascertained by an examination of the Philadelphia prices current, from 1803 to 1807, inclusive, that, in the former year, this article was quoted in that market at seventeen and one-half cents per pound, and in the latter at but thirteen and one-half, a difference of four cents per pound in the short period of four years. And although he had no means of ascertaining the cost in the foreign market, it could not but be presumed to have been considerably higher than the average of the six years ending with 1829, within which, notwithstanding there was some variation in the prices of different years, he did not believe the average would be found to exceed seven and one-half cents per pound. As the operation of a part of the system of duties on sugars, he would state what he had no doubt was true, that in some instances much more drawback had been allowed on the exportation of refined sugar than the duty previously paid on the raw sugar from which it was made. In fact, that the article alluded to as thus receiving drawback, was not worth the average price of brown sugar, and that little, if any, loss of quantity had probably been sustained by converting the one into the other. This, he said, he understood, had undergone judicial investigation, and the court had been compelled to decide that the article came within the technical meaning of refined sugar, under the law. But, although this was an abuse, he would not leave the subject without a passing notice of the protection afforded to *bona fide* refiners of sugar in this country. By the tariff of 1816, the duty on refined sugar imported into this country is twelve cents per pound. He believed that one hundred and seventy pounds of raw sugar were generally estimated as equal to, or sufficient for, the manufacture of one hundred pounds of refined.

He did not know precisely how it was estimated in this country. He knew that this was considered to be the standard in Great Britain, and, as he understood five cents per pound to be the drawback allowed on the exportation of American refined sugar, presumed the English and American standard did not materially vary. What, then, said he, is the consequence? That the refiner of sugar in this country receives a drawback to the whole amount of duty on what he exports, and a protecting duty of

seven cents the pound on all that is consumed in the country. He did not pretend to know what is the cost of refining, but, to his mind, the tax appeared to be enormously disproportioned to the value of the article upon which it is laid. But, in discussing this subject, it is necessary that we consider its influence upon some of the various and important interests of the country. We have been told by the Secretary of the Treasury, in his annual report upon the finances, that the navigation of the country is in a most languishing condition. This must be manifest, if we look at the diminished value of our exports and imports within the last five years. If he was not mistaken, though he had not very recently examined the subject, he believed that both exports and imports had declined in annual value within that period, about thirty millions of dollars each. He said, although for his part, he had no doubt the evil just adverted to had a much deeper root, he was prepared to believe, and did believe, that a due proportion of the depression under which American navigation now languishes, may be justly attributed to the restriction imposed by the existing duty on sugar, upon our intercourse with sugar-making countries; and for evidence of the partial effects of these restrictions on American trade and navigation, he would refer gentlemen to the correspondence between General Von Scholten, the special minister from Denmark, and the Secretary of State, which had lately been communicated by the President to Congress, and printed by order of the House. He had not troubled the House with the inquiry whether the duty imposed by the act of 1816 was intended for revenue or protection, or partly for both. This was unnecessary, as he had expressed the opinion at the outset, that whether designed for the one or the other, repeal or reduction was now necessary. In investigating the effect of this duty on American navigation, he had looked over a part of the annual report on commerce and navigation for the year 1829, for the purpose of ascertaining the true state of the matter. * Upon a careful examination, he had found, that, although our exports for that year to the Swedish, Danish, Dutch, British, and French West Indies, British American colonies, Cuba, other Spanish colonies, Brazil, and the West Indies generally, amounted to fifteen million three hundred and two thousand and eighteen dollars, yet the imports amounted to no more than twelve million six hundred and seventy-four thousand three hundred and forty-two dollars, showing an excess of exports over imports of two million six hundred and twenty-seven thousand eight hundred and seventy-six dollars. As the value of the exports was estimated in the home market, and of imports in the foreign, it is difficult to reconcile the excess of the former over the latter, upon any principle consistent with profitable trade. But the subject seems to present further illustration when we compare the amount of tonnage engaged in this business, which entered and departed within the same period. This comparison shows an excess of seventy thousand one hundred and thirty tons of shipping departed, over that which entered during that year. He had not attempted an accurate estimate of the foreign tonnage engaged in this trade within the period under consideration, but did not believe it would materially vary the result. But, if we include the trade with Hayti, which shows a considerable balance of imports over exports, it will reduce the general balance against us to but little less than two millions of dollars. He said, further comment on this subject could not be necessary. And here he said he could but regret that the information called for by an honorable member from North Carolina, (Mr. CONNER,) at the last session of Congress, and that which had been called for by a resolution which was offered by himself since the commencement of the present, had not yet been received from the Treasury department. And although he came not here as the eulogist of any man, it would become him to say, that if the information sought for by the resolutions to which he had alluded, had been within the power of the able and diligent head of that department, he had no doubt it would, before now, have been communicated to this House. He regretted the absence of this information, particularly as we are without any specific data upon which to estimate the amount of capital employed in the culture of the cane and the manufacture of sugar in this country, and the annual profit which it affords. It has been stated that the quantity manufactured in this country in the year 1830 amounts to one hundred thousand hogsheads, or one hundred millions of pounds. Assuming the amount imported in 1829 as the standard of importation of 1830, it may be taken for granted that the consumption of the present year cannot fall short of one hundred and fifty millions of pounds. If this estimate be correct, it is not difficult to arrive at the amount of contribution levied upon the whole mass of consumers by the operation of the present unequal and most burdensome tax on this article. In his view of the subject, there was no doubt the consumers were taxed at the rate of three cents per pound upon the whole consumption of one hundred and fifty millions, making an aggregate of four millions and a half of dollars for the present year; thus showing that this tax which carries into the Treasury but one million and a half of dollars, puts the sum of three millions into the pockets of the American manufacturers of brown sugar. If he should be asked how he arrived at this conclusion, he would answer, that he had been informed, and did not believe the fact could be controverted, that the difference between the short price and the long price of sugar in our greatest commercial city, was precisely the amount of the duty of three cents per pound.

As his remarks might, perchance, attract the

notice of other eyes than those of commercial men, he would state, that the short price was the price without the duty, and the long price the price including the duty. So that, as no foreign sugar regularly imported can be consumed in the country without paying the long price, the duty is necessarily paid on all so consumed. It might be objected, that domestic sugar is lower in the market of New Orleans than the average price of foreign sugar in the Atlantic cities on which duties has been paid; but he apprehended no essential difference will be found between the prices of the foreign and domestic articles in the Atlantic cities above referred to. And he has been informed, and believes, that foreign sugar at the short price, or duty off, can, at the present moment, be bought at a considerably lower price in our Northern markets, than the domestic in the market of New Orleans. If this be the fact, would not the article, if the duty should be materially reduced, come as cheaply from the West Indies, or, indeed, more so, than from New Orleans? But, in the remarks which he had submitted upon the subject as connected with the navigation of the country, he had not adverted to the recent recovery of the direct trade with the British West India Islands. He could not speak advisedly on the subject, but had no doubt a reduction of the duty on brown sugar would have a most salutary influence on the advantages to be derived from this acquisition.

But, in advocating the reduction of this duty, it was not to be considered that he looked to that reduction as likely to destroy, or essentially diminish, the manufacture of brown sugar in this country. The enormous profits which he believed were now reaped by persons engaged in this manufacture, might well bear some reduction—and, when we consider the languishing condition of other agricultural pursuits, ought to be made to bear it. What is the general condition of agriculture throughout the country, it is not necessary to state, nor the large portion of our people who derive their subsistence from its hard earnings. He must again express his regret for the want of more specific information on the subject. In the absence of such information, he must rely upon an estimate of the sum necessary to purchase and supply with the necessary stock, machinery, and subsistence for one year, a plantation for sixty hands, and the probable product of their labor, as a standard of the profits of this pursuit. The estimate he would first offer was one said to have been made by an individual who has had some practical acquaintance with the business as conducted in one of the sugar colonies of France. He said he did not intend to rely solely on this estimate; but, after presenting it, he would offer others to the notice of the House, which, he was pursuaded, would be found not to present a picture too favorable to the manufacturer of brown sugar in this country. The estimate to which he had referred puts down the sixty hands at an average of three hundred dollars, making an aggregate of eighteen thousand dollars. Five hundred acres of land at ten dollars per acre, five thousand dollars; dwelling, negro, and other houses, works, tools, steam engines, &c., at twenty-three thousand dollars; one year's subsistence, including incidental expenses, at four thousand dollars—making a total of fifty thousand dollars. Taking the quantity of land cultivated in cane at three hundred acres, and the average product of sugar at twelve hundred and fifty pounds per acre, will be three hundred and seventy-five thousand pounds. The quantity of molasses at eighty-four gallons per acre, will be three thousand seven hundred and fifty gallons of molasses. Estimating the sugar at five cents the pound, and the molasses at fifteen cents the gallon, the gross revenue will be twenty-two thousand five hundred dollars, from which deduct three thousand dollars for yearly expenses, and it will leave, of net income, nineteen thousand five hundred dollars, or about thirty-nine per cent. upon the whole investment. Mr. H. said, although the estimated average value of slaves in other States might seem to justify the average assumed for the gang of sixty, yet, as the estimate might, by some, be considered too low for Louisiana, he would add ten thousand dollars to the estimated cost of the establishment; and then, assuming the same annual product from it, if he had made no mistake in the calculation the net profit would exceed thirty-two per cent. But suppose we set down the capital invested at one hundred thousand dollars, instead of fifty, and calculate upon the same product, the profit will be near twenty per cent.; and if we add half a cent per pound to the estimated value of the sugar, (and he had been informed that the last advices from New Orleans placed it at that sum,) the profit, taking the whole cost of the establishment at one hundred thousand dollars, would exceed twenty per centum per annum. But, suppose the medium sum of seventy-five thousand dollars be taken as the cost of the plantation, hands, &c., and estimate the product at four thousand pounds to the hand, and he would venture the decided opinion that the hands actually employed do not fall below that average, estimating the sum of two hundred and forty pounds of sugar at five and a half cents per pound, twenty thousand one hundred and sixty gallons of molasses at fifteen cents per gallon, and the result is the gross sum of sixteen thousand two hundred and twenty-four dollars, which, allowing four thousand two hundred and twenty-four dollars for annual expenses, leaves twelve thousand dollars clear profit, or sixteen per cent. per annum.

Where is the agriculturist, engaged in any other branch of this widely diversified pursuit, who realizes one-third of this profit from the capital and labor which he employs? Surely not the grain grower, of whose limited market and scanty profits we have heard so much; and

as surely not the tobacco or cotton grower, who, with so much difficulty bring the two sides of the leger to meet. He said he had no practical information on this subject, but, from what he had heard upon authority, he did not question two thousand pounds of sugar had been manufactured from an acre of cane, in one of the southern counties of Georgia, and he had understood that a like quantity had been manufactured by some individual in Florida, since the commencement of the present winter. But why go further into detail on this subject? If his calculations were to be relied on, and he had little doubt that some one of them might be, the result is, that the manufacture of brown sugar can be profitably prosecuted in this country without the aid of a protecting duty.

But let us view the subject somewhat more in the aggregate. If one thousand pounds of sugar to the acre be a fair average, and, if it varies from the truth, he believed it was below it; and if a hand can manage five acres, and he believed, from his general knowledge of southern agriculture in relation to articles requiring similar cultivation to the sugar cane, he can do so, we arrive at the conclusion, that the land cultivated in cane does not exceed, and probably falls below, one hundred thousand acres, and the hands cultivating it cannot exceed twenty-five, and probably do not number more than twenty thousand. Taking then the whole product of eighteen hundred and thirty, at one hundred millions of pounds of sugar, and the molasses he should not estimate, because he had understood it would cover the annual expenses of the plantation on which it was made, at least, the expenses of cultivation—and the value of the sugar amounts to five millions and a half of dollars at New Orleans, and probably two millions, or two and a half more before it gets into the general consumption of the country. If we divide the five millions and a half between twenty thousand hands, the distributive amount to each is two hundred and seventy-five dollars. If a like distribution be made between twenty-five thousand, it is two hundred and twenty dollars each. Then is it just, is it reasonable, that the whole agriculture of the country should be burthened by a tax of four millions and a half of dollars?—for if the million and a half now received as revenue can be dispensed with, and by its repeal the country would be relieved from an additional levy of three millions now paid to the sugar manufacturers, the whole tax may now be considered as operating for their benefit—that the hands employed in manufacturing brown sugar in this country may earn for their employers the annual return of from two hundred and twenty to two hundred and seventy-five dollars for the labor of each, exclusive of the value of molasses. Shall the hundreds of thousands of hands employed throughout our wide-spread country in raising grain, tobacco, cotton, and other agricultural products, be taxed four millions and a half of dollars, to enable twenty or twenty-five thousand to cultivate from eighty to one hundred thousand acres of land, at a profit of from sixteen to near forty per centum per annum? Surely justice forbids it. But some advocate for continuing the duty might say, that the sugar culture cannot be profitably carried on without it. If he believed this to be the case, which he most certainly did not, he, for one, should say it was high time the culture was abandoned.

Mr. H. said, that, among the motives which had urged him to bring this subject to the consideration of the House, there was one, which, although it had been omitted at the outset of his observations, it might not be immaterial to mention. He came from a State which might be considered by some as having an interest in the continuance of this duty—a State which, as she had gone into the revolutionary contest in defence of principle, was ready to maintain it now. Yes, sir, it was for principle that Georgia made common cause with the oppressed of other colonies, in that dark hour through which the sun of independence has risen on this continent. As one of her representatives, I came here upon all subjects connected with the tariff with clean hands: If I did not, I should not be her true representative. But, sir, I did not introduce this subject alone for the purpose of addressing this House. I know not that any fact or argument which I could offer to its consideration, would have the smallest influence upon the decision of the question now before it. Sir, I had another and a higher motive—it was, that I might from this place address myself to the practical good sense of the country, that, perchance, I might awaken in the bosom of the laboring man, as he whistles over the handles of his plough, the inquiry why this unequal and burthensome tax should be continued, mainly for the benefit of the lordly capitalist.

FRIDAY, January 14.

Mileage of Members.

The House then resumed the consideration of the instructions proposed to be given to the Committee on Public Expenditures relative to the computation of the mileage of members of Congress—the question being on the adoption of the amendment heretofore moved by Mr. HALL, on the 12th instant.

Mr. CRAIG submitted an amendment to the amendment, to add to it the words, "with an allowance of ten per cent. for variation from the direct line."

Mr. DE WITT moved to lay the whole subject on the table. Negatived—yeas 26, nays 159.

Mr. CRAIG assigned his reasons for offering his amendment. Some members lived on or near the direct line—others did not—and it was his object to pay to those who did not, an addition of ten per cent. to the usual allowance for mileage.

Mr. CHILTON opposed the amendment. If a

bill was passed containing such a provision, it would be giving an advantage to those members who lived on the direct line of travel to the seat of Government, of ten per cent. over those who had to travel over a mountainous country, and by a circuitous route.

The question was then put on the amendment proposed by Mr. CRAIG, and decided in the negative.

The question then recurred on the adoption of the amendment proposed by Mr. HALL, and it was decided in the affirmative—yeas 114, nays 80.

So the amendment was adopted, in the words following:

"*Resolved*, That the Committee on the Public Expenditures be, and they are hereby, instructed to report to this House a bill making it the duty of the Secretary of the Senate and the Sergeant at-arms of the House of Representatives, with the aid of the Postmaster General, at the end of every session, to make an estimate, as nearly as possible, of the actual distance (in a direct line) of the residence of each member of the Senate, House of Representatives, and Delegate of a Territory, from the seat of Government; and that the mileage of members of Congress be computed, and their accounts for travelling be settled, according to such estimate."

Mr. VANCE and Mr. BATES both wished to propose further amendments; but they were declared to be out of order.

Claim of James Monroe.

The motion to postpone the orders of the day was negatived; and, on motion of Mr. MERCER, the House resolved itself into a Committee of the Whole, Mr. FINDLAY in the chair, and resumed the consideration of the bill "for the relief of James Monroe"—the question being on a motion of Mr. CHILTON to strike out the enacting clause of the bill.

When the bill was last before the committee, Mr. CHILTON moved an adjournment, and was therefore entitled to the floor to-day; but he declined speaking on the subject.

Mr. SPENCER spoke at great length in favor of the bill, and, in the course of his remarks, vindicated the citizens of the city of New York in the course they had taken to procure the passage of a bill for Mr. Monroe's benefit.

Mr. COKE and Mr. BURGES also spoke in favor of the claim.

Mr. IHRIE, of Pennsylvania, said: If I were on this occasion to give way to my individual feelings, and permitted myself to be under their control, I should certainly support the claim of the petitioner. No gentleman upon this floor estimates the character and services of Mr. Monroe more highly than I do; and if it were possible to persuade myself to doubt upon this question, I would freely, and without hesitation, give my vote in favor of the bill. But I have in vain endeavored to satisfy myself with regard to its propriety, and the conclusion to which I have arrived has been to myself a subject of regret. Sir, it is a painful subject. That a citizen upon whom all the honors of the republic have been bestowed, who has reaped the rich harvest of rewards—whose fame and name stand identified with the glory and past history of his country—that such a man, in the evening of his day, should be impressed with a belief that his country is ungrateful or unjust, is indeed a circumstance much to be regretted. In the investigation of such questions, however, we are not permitted to yield to our sympathies, nor indulge in personal predilection—there are other considerations of a graver character, which must guide us in the course we ought to pursue.

In the view which I have taken of this claim, for obvious reasons, I have confined myself principally to the memorial of Mr. Monroe himself, which was laid upon our tables during the present session, and I think it is fairly embraced under the following items: First. For additional expenses in the employment of several assistant secretaries during his mission to France, in the year 1794, the rent of a house for their service, and other accommodations. Second. For extraordinary expenses in England and France, arising from his detention there. Third. For losses sustained in the purchase of a house in Paris. Fourth. For gratuities to the citizens of Paris, and for assistance extended to American citizens then in France, who made appeals to his generosity during his mission there. Fifth. For compensation in negotiating certain loans during the last war, whilst Secretary of War; and, lastly, interest upon all these items, to the present period.

In the memorial just referred to, Mr. Monroe puts his claim upon the ground that the Government is in his debt, and, in submitting it to your consideration, he expressly solicits no indulgence or favor. Sir, if the claim be proved a debt due, I apprehend no one here pretends to doubt but that it should be paid; and whether it be a debt or not, appears to me the only inquiry necessary or proper for us to make. By a reference to the report of the Committee of Congress, in 1826, which was raised upon a claim at that time presented by Mr. Monroe, it will be perceived that no allowance was then made for two of the items composing the present claim, viz.: For contingent expenses of the mission to France, from the 1st of August, 1794, to the 1st of January, 1797, the sum of one thousand four hundred and ninety-five dollars and eighty-five cents, that being the average allowance to all the American Ministers in France, deducting one hundred and ten dollars previously received; and for extraordinary expenses incurred by Mr. Monroe's detention in England, by direction of his Government, for the space of two years and four months, the sum of ten thousand five hundred dollars, together with interest upon both items from the 3d of December, 1810, to the 3d of December, 1825. The action of this House, then, having been already obtained, with regard to two of

the items before enumerated, and now again presented, and the money having been paid, I consider that, with respect to them, the account is closed, and therefore, in the few remarks which I propose to submit, I will confine myself to the three remaining items of the demand.

It is not pretended by any one in favor of this bill, that Mr. Monroe had any instructions from his Government to purchase a house in Paris. The course thus by him pursued, is placed upon the grounds of expediency and of sound policy. I assume it for granted, therefore, that no such instructions were, in fact, given; and that the Government was not privy to the purchase. Sir, in a step so extraordinary, I would suppose that some previous intimation, at least, should have been given to his Government, and the necessity or policy of the measure explained. I have searched in vain, for evidence upon this subject. There is none upon your records; and it is, therefore, that, in the absence of all proof of that description, I hold it incumbent on the friends of this claim to satisfy us that the measure was, at least, expedient. Indeed, I think, under all the circumstances, the expediency of the measure should be apparent. The Committee of Public Safety, in France, shortly after his recognition by the then existing Government, proffered to Mr. Monroe a national house for his accommodation, which he declined to receive, because of that clause in the Constitution of the United States which forbade him to accept any present or emolument from a foreign power; and, for fear this refusal on his part might be misinterpreted, it is said he purchased the property in question. Sir, I cannot perceive, notwithstanding all that has been spoken and proved upon this subject, that there existed any reasonable ground for this apprehension. Mr. Monroe had assigned the true and substantial reason for this refusal, and doubtless the reason thus assigned, in the opinion of the Committee of Public Safety, was entirely satisfactory, as it certainly was conclusive. The citizens of France, I cannot believe, could expect, that, in any transaction with their Government, he should violate the constitution of his own country. There is, therefore, in my humble apprehension, no soundness in the argument; there was no reasonable cause to fear the displeasure of the French Government.

I do not profess, sir, to be well acquainted with the course usually adopted by this Government with our foreign Ministers, in regard to their residence. But I cannot understand why Government should at all interfere. Are not our Ministers in this respect free agents? and is it not reasonable they should be? A mansion or a situation that would be agreeable to one, might not perhaps please another. One may prefer the quiet and seclusion of the country, another the bustle and life of a gay metropolis. One may prefer to live a plain republican, another to compete with the wealthy in the glitter of his equipage. Whatever the inclination in this respect may be, Government, I apprehend, does not interfere. I do not suppose, nor do I desire to insinuate, that Mr. Monroe was unnecessarily extravagant. I desire merely to show how very idle, nay, how very inconvenient it would prove, if Government should undertake to control its Ministers in the selection of a residence. Sir, if it should proceed so far, it might as well go farther; and, besides selecting a residence, also control the expenditure of an outfit or salary. Indeed, all that Government reasonably can require of its Ministers, is an upright and vigilant discharge of their functions; that being accomplished, it will not stop to inquire where, or how they live—whether in a hut or a palace.

But I am wandering from the true point before me. It is said, however, that the purchase of a house assisted in giving the appearance of permanency to our amicable relations with the French republic. Sir, I cannot think so, unless the Committee of Public Safety were very easily convinced upon that subject, as they assuredly must have been if the mere purchase of property could induce such a belief. In reality, I cannot perceive what possible material difference there could be with the French Government, whether your Minister's abode was in a rented mansion, for a term of years merely, or upon a purchased estate, at any time, at all times easily sold.

It is contended, I am aware, that Mr. Monroe, at the time he made the purchase, intended it for the use of the Government of the United States, and that the purchase was made with a view of making it the future residence of our Ministers to France. Sir, I do not in the least doubt but that such was the intention of Mr. Monroe, because he says so now, and so declared it at that period. But to any one who will take the trouble to examine the documents upon your table on this subject, it will appear manifest, that if such was the intention of Mr. Monroe at the period of the purchase, that intention, beyond all doubt, was abandoned subsequently. Indeed, any other construction would place Mr. Monroe in a singular, perhaps unfavorable, attitude.

Mr. Chairman, this intention of offering it to the Government was abandoned certainly, because Mr. Monroe, before he left France, again disposed of it without consulting his Government. He sold it for a price beyond the original purchase money, with its interest and repairs superadded. He made the contract of purchase, as also that of sale, without consultation with his Government; and, besides all, if further proof were necessary, he put the money (fifty thousand livres) paid to him on account of the sale, into his private funds, and applied it to his private purposes.

It is true, a loss was afterwards sustained, in the failure to recover the balance of the purchase money from his vendee, in consequence, as it was alleged, of a defect in the title. Sir, it was not the error of this Government, that

Mr. Monroe purchased a defective title, and its evil consequences ought not, therefore, to fall upon it, notwithstanding the intention manifested in the purchase, when all intention to apply it to national purposes was afterwards abandoned. It would, indeed, produce a singular state of affairs, that any foreign Minister should be at liberty to purchase property, and make his Government responsible only when a loss is sustained. To what extent such a privilege might be abused, it is needless to say: one result would follow, generally: the Government would certainly have all the losses to sustain, without a corresponding chance for the gains of the speculation.

I consider, therefore, Mr. Chairman, that in this transaction there was no manner of benefit derived to the United States. That this Government was in nowise consulted with regard to that measure, and had given no instructions concerning it; and, as it could not, under the circumstances, be a gainer, so it should not be made the loser, and particularly because Mr. Monroe, with whatever intention or design he may have made the purchase originally, beyond a doubt in this respect changed his mind, finally considering it as a part of his private estate, and as such disposed of it.

The second item of the claim is founded upon certain gratuities or donations to the people of Paris, as also for advancements made to citizens of America then in France, and who in their distress made appeals to his generosity. Mr. Chairman, doubtless this strikes you, as I think it must every other member of this committee, as being, at least, a very novel claim. I am persuaded there is no one here willing to urge it as a debt which the Government, upon any acknowledged principles, is bound to discharge. Then I would inquire of the honorable chairman of the committee, (Mr. MERCER,) who have made it a part of their report, to show under what obligation the United States can possibly be to assume the payment of this claim.

True, it is in itself not very large, and by some, therefore, may be considered as unimportant; but still the question recurs, upon what principles is the claim to be sustained? Sir, I will not consider whether the objects of this charity were meritorious or otherwise; perhaps, if I were so disposed, the means for examination would be wanting. But, taking it as conceded that Mr. Monroe was in this respect truly benevolent and charitable, and I do not doubt but he was, I would inquire whether, in so doing, he looked for any other reward than that reward which he doubtless received and yet enjoys. Sir, when your Minister is disposed to become the dispenser of alms, he acts without the pale of his ministerial functions. It forms no part of his public duty. He may, perhaps, imagine that such conduct may exert a beneficial influence upon the interests of his country, yet, as he is not despatched for the purpose of distributing his charities, the Government therefore cannot be made responsible.

I wish not to detract from the course thus pursued by Mr. Monroe; he was a benevolent man, and such conduct is worthy of imitation; but as these acts of his generosity were individual in their character, as the donations emanated solely from the purity and excellence of his heart, I feel persuaded, in our legislative character, we ought not, as I am convinced in reality we cannot, add to his reward.

But, Mr. Chairman, this is a delicate subject, and I pass, without saying any thing more, to a more important item of this claim—an item which, exclusive of interest, is put down at $25,000: I allude to the compensation for loans negotiated by Mr. Monroe during the last war, whilst officiating as Secretary of War. Sir, it was truly said by an honorable gentleman from North Carolina, during this debate, (Mr. WILLIAMS,) that for many years past the financial situation of this country has been unembarrassed, and perfectly adequate to all its engagements; and hence it appears to me not a little remarkable that this item, important in all its aspects, has not been presented before.

I have not taken the trouble to examine minutely into the accounts heretofore settled with Mr. Monroe, nor have I searched for any other evidence than that furnished by the two very respectable and intelligent committees to whom these subjects have been referred. From the reports, however, upon your table, I perceive that Mr. Monroe was Secretary of State from the 1st April, 1811, to the 30th September, 1814, three years and six months, at $5,000 per annum, during which he received from the public Treasury the sum of $17,500; that he was Secretary of War from October 1, 1814, to February 28, 1815, five months, at $4,500, per annum, and received for salary $1,875; and that he was again Secretary of State from 1st March, 1815, to 3d March, 1817, two years and three days, at a salary of 5,000 dollars per annum, and received $10,041 65, a sum altogether amounting, by way of salary, to $29,416 65 for a period of five years, eleven months and three days' service.

It is manifest, therefore, that Mr. Monroe, for the period when these loans were negotiated, received his legal compensation by way of salary. The service in question was rendered within the period I have mentioned. He has, therefore, received the legal compensation for his services, the amount affixed by law, and for which he undertook the service with all its burdens. The duty having thus been performed, and the salary received on the part of the Government, then, the contract was terminated. Does it not follow, therefore, Mr. Chairman, that the claim now under consideration is a demand for an extra compensation? In plain terms, you are asked to make an extra allowance for services performed, to compensate which there was a fixed salary, amply sufficient for all the labor bestowed. I say, sir,

ample, because I am yet to hear that it is considered otherwise.

I should not, Mr. Chairman, be doing justice to this old and faithful servant of the republic, if I did not concede he rendered eminent services for his country. His history is our history; but while speaking of these services, what more to his praise can be said, than that he discharged the duties of the varied situations which he filled with fidelity? Sir, can you bestow a higher eulogium upon any man, than to say he retired from every public situation which he held, taking with him an irreproachable fame, together with the approbation of his country? Sir, I grant he rendered important services, and discharged his duty faithfully; but, for so doing, I do not consider that the Government is under any obligation to make him an extra allowance. If it be, then every other officer of the Government, whether he be found in the navy or the army, or upon your civil list, who has rendered faithful service, is also entitled.

That there are such, you, Mr. Chairman, will allow: a list of such could soon be made out. Sir, upon that principle, in the very number of witnesses who, on this occasion, have testified to the services performed by the ex-President, without going further, you would find objects for your bounty. Men, it is true, who performed an humbler, but at the same time, not the less necessary task, but who are on this as on every similar occasion, too frequently overlooked or forgotten in the honors and triumph which await only the few.

Now, I appeal to the good sense of all who hear me, whether a precedent such as we are asked on this occasion to constitute, is consistent with a sound policy. In effect it would be holding out salaries to men as inducements merely to accept a trust, and then to pay them besides for doing their duty. There is no obligation upon any one to undertake these responsibilities; but when he does so, he is under a moral as well as legal obligation to discharge the duties thereof with fidelity. Such were the responsibilities in the present instance. For this duty he has been paid, and, I think, well paid. He has received all to which he was entitled by the contract. I cannot perceive, therefore, Mr. Chairman, that the Government of the United States is under a legal or a moral obligation to pay any more. There is, in fact, no indebtedness established, which alone could bind us.

I have thus endeavored to show that, upon principles of legal liability, the Government owes Mr. Monroe nothing; and it becomes me now to consider whether we can with propriety liquidate this claim upon any other ground. As a donation, nothing is desired: Mr. Monroe asks "for nothing which is not strictly due on sound principles, and which his country shall, on full consideration and unquestionable evidence, think that it owes it to itself to allow him." Nevertheless, as an individual, I have every disposition to favor the application; but, in doing so, I very much doubt my authority to do it by any means not my own. Sir, I am at a loss to discover that we have the right to be generous at the expense of others. If I were asked the question, upon what principle the gratuity was to be made, I should not be enabled to answer; I speak with reference to the duties we are delegated to perform.

I am acquainted with no principle consistent with our duties as legislators, that will authorize the members of this House to lay their hands upon the public Treasury for purposes of this kind. It is, indeed, no part of the business, to transact which we are delegated. But, sir, aside from these considerations, I ask you, Mr. Chairman, whether, in paying this very large sum of money, we should be doing justice. Are there not others whose claims are equally pressing, and who have not been so well provided for as Mr. Monroe? Are there not other men who also fought and bled for their country? Men who spent their youth and fortune and strength in her cause? Let me ask, have you paid these men the debt you owe them? Have you paid your revolutionary army? Sir, these men, the patriots of other days, have not yet been paid; this debt of honor, of gratitude, and of contract, still remains open against you. How often is it that the venerable patriot of the revolution is seen lingering about your doors; and how often is he turned away, with regret I say it, not with his honest dues in his pocket, but with a heavy heart, to reflect upon his services, and the injustice and ingratitude of his country, to live in penury, and die a beggar.

But admitting, Mr. Chairman, that you are willing to pay this claim, I am at a total loss to conceive upon what ground interest is to be allowed also. Certainly not one of the gentlemen has condescended to show us upon what principle this is to be effected. Interest, it is true, usually follows a debt, and is given by way of damages for its detention. But, Mr. Chairman, there can be no debt outstanding, where all has been proved paid according to agreement. It is true, also, that when a payment is withheld illegally or unjustly, interest should follow by way of recompense. But gentlemen fail in the outset of their argument; the foundation is not laid, and you cannot add the superstructure. They must establish an indebtedness first, before they can set up a claim for interest; but in their attempts at this they have entirely failed.

I pass, however, Mr. Chairman, to another, and perhaps the most important view of this subject. You know, sir, that, in the year 1826, Mr. Monroe made an application similar in many respects to the present, consisting of various items, some of which are again to be found in the demand before us, and amounted to the sum of $23,570. A very able committee was appointed, who made a report, making some reduction in the amount, but still allow-

ing for all the items of that claim, save one. I think they reported as being due to Mr. Monroe the sum of $15,533 35, together with interest from 3d December, 1810. It may not be necessary that I should here state the progress of that bill to its final passage. Suffice it to say, that to the amount thus reported was superadded the interest for a period of fifteen years, thereby swelling the sum reported as being due by the committee to $29,513.

Here, then, Mr. Chairman, a greater sum was finally allowed than the principal of Mr. Monroe's claim at that day amounted to. This doubtless was done from a disposition alike honorable to Congress as it was generous towards Mr. Monroe. In doing so, however, Congress deemed it proper to impose terms; and, with a desire that this committee may fairly comprehend me, I ask you, sir, that the act of Congress passed in the year 1826 for the relief of Mr. Monroe be read.

[Here the Clerk read as follows:]

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Secretary of the Treasury be, and he is hereby, authorized and required to cause to be paid to James Monroe, out of any unappropriated moneys in the Treasury, the sum of twenty-nine thousand five hundred and thirteen dollars, in full of all demands whatever against the United States."

Mr. IRBIE resumed. Now, Mr. Chairman, I cannot perceive upon what principle we can again be called upon to legislate on this subject without violating our own deliberate act. The money was voted, and it was received, and in the spirit and very letter of the law, was intended as a final adjustment of all Mr. Monroe's demands. Sir, in a court of justice, the Government might, if disposed, plead a former recovery with some propriety; at any rate, upon whatever principles you may desire to place it, the plain rule of ordinary life should hold, that a debt or a claim, or by whatever name you may please to call it, being once settled and paid, should be permitted to rest. It is not equitable that the Government should again and again be called upon to account, particularly after a final adjustment, to the terms of which the parties interested have acceded.

Mr. Chairman, I have thus briefly passed through this subject. I feel it my duty to give my vote against this application, in whatever form it may present itself; a duty, sir, by no means in accordance with my wishes. Sir, I would I could conscientiously give my voice in favor of the venerable patriot whose life and reputation I have always been taught to esteem; I should deem it a pleasure, which I hope ever to enjoy, in contributing my feeble efforts to the benefit of those who sustained this republic in the hour of her need. But I cannot permit my inclinations to sway my judgment; I cannot consent to give to one, and withhold from another; I wish my country to be just before she is generous.

Mr. MERCER rose, and, in a speech of some length, replied to the arguments of those gentlemen who had opposed the bill. In conclusion, he handed to the chair the following, which, he said, if the motion now before the House should not succeed, he should offer as an amendment to the bill:

"That the proper accounting officers of the Treasury be, and they are hereby, authorized to adjust and settle the accounts and claims of James Monroe, late President of the United States, on principles of equity and justice, subject to the revision and final decision of the President of the United States.

"*And be it further enacted*, That so soon as it shall have been ascertained and determined in manner aforesaid, that any sum of money is due to the said James Monroe, such sum shall be paid him out of any money in the Treasury not otherwise appropriated."

The proposed amendment was read by the Clerk; when

The question was put on striking out the enacting clause, (to destroy the bill,) and it was decided in the affirmative—yeas 78, nays 67.

The committee then rose, and report progress.

MONDAY, January 17.

The Impeachment.

Mr. HAYNES submitted the following resolution:

Resolved, That, during the argument of counsel in the impeachment now pending in the Senate against James H. Peck, district judge of Missouri, this House will, from day to day, resolve itself into a Committee of the Whole on the state of the Union, and attend the same; and that the Clerk acquaint the Senate therewith.

Mr. HAYNES said that it was understood that, upon the opening of the high court of impeachment to-day, the arguments of counsel would commence. He thought it the duty of the House to attend during the arguments; and with that view he had submitted the resolution.

Mr. WHITTLESEY suggested the propriety of amending the resolution, by adding to it the following words: "and that the hour of meeting of the House shall be 11 o'clock after this day."

Mr. HAYNES accepted the amendment as a modification of his resolution.

Mr. WILLIAMS then moved so to amend the resolution as that the House should attend for this day only.

This motion was determined in the negative.

Mr. PETTIS called for the yeas and nays on the adoption of the resolution; but the House refused to order them.

The question being then put on its adoption, it was decided in the affirmative—yeas 89, nays 74.

TUESDAY, January 18.

Judge Peck.

The House went into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate chamber, to attend the trial of Judge Peck.

WEDNESDAY, January 19.

Supernumerary Officers and Cadets.

Mr. WICKLIFFE submitted the following resolution:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of dismissing from the army the supernumerary lieutenants by brevet commission.

That the committee also inquire into the expediency of fixing the age between 17 and 21 years, as the period of admission into the West Point Academy; and that all the graduates, from time to time, at that institution, shall be discharged from the army, when not needed in the actual service of the country.

That they inquire into the expediency of authorizing appointments in the line of the army, from the meritorious non-commissioned officers of the army.

And, also, of reducing the number of cadets in said academy, now authorized by law.

THURSDAY, January 20.

Military Academy.

The resolution yesterday submitted by Mr. WICKLIFFE was then taken up.

Mr. DRAYTON was entitled to the floor; but, as the hour had nearly elapsed for the consideration of resolutions, he declined making the remarks which he intended to have done to correct the errors into which the gentleman from Kentucky had fallen, and said he would content himself with moving for a division of the question, so as to take the sense of the House on the first member of the resolution:

The question being put, the first paragraph of the resolution was agreed to, as follows:

"*Resolved*, That the Committee on Military Affairs be instructed to inquire into the expediency of dismissing from the army the supernumerary lieutenants by brevet commission."

The question was then taken on agreeing to the remainder of the resolution, and was also agreed to, in the following form:

"That the committee also inquire into the expediency of fixing the age between seventeen and twenty-one years as the period of admission into the West Point Academy; and that all the graduates, from time to time, at that institution, shall be discharged from the army when not needed in the actual service of the country.

"That they inquire into the expediency of authorizing appointments in the line of the army from the meritorious non-commissioned officers of the army.

"And, also, of reducing the number of cadets in said academy, now authorized by law."

The Impeachment.

The House then resolved itself into a Committee of the Whole, and proceeded to the Senate, to attend the trial of the impeachment of Judge Peck.

FRIDAY, January 21.

Mileage of Members.

The engrossed bill "to establish a uniform mode of computing the mileage of members of Congress, and delegates from territories," was read the third time; and the question being stated on its passage,

Mr. CHILTON required the yeas and nays on the question, and they were ordered by the House.

Mr. TUCKER requested information as to the time when the bill, if it passed, would take effect. He presumed not till the next session of Congress; in which case, he should be averse to passing the bill.

The SPEAKER replied that, if the bill should pass, it would take effect upon the present Congress.

Mr. TUCKER withdrew his opposition; and

The question was then put on the passage of the bill, and was determined in the affirmative —yeas 129, nays 80.

So the bill passed, and was sent to the Senate for concurrence.

The following joint resolution was read the third time:

"*Resolved, &c.* That the rules of each House shall be so amended, as to make it the imperative duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives to ascertain, at the end of every session of Congress, from each Senator, member, or delegate from a territory, the number of days which he may have been absent from, and not in attendance upon, the business of the House; and, in settling the accounts of Senators, members, and delegates, there shall be deducted from the account, or amount of pay for each session, at the rate of eight dollars per day for every day any member of either House, or delegate, shall have been absent, except by order, on business of the House to which he belongs, or in consequence of sickness."

The question being put upon its passage, a brief debate took place between Messrs. THOMPSON, of Georgia, HALL, GORMAN, SUTHERLAND, TUCKER, and DRAYTON, upon the form of the resolution, and its effect upon the rules, &c. Pending the remarks of the latter gentleman, a message was received from the Senate, informing the House that that body was now sitting as a court of impeachment: whereupon,

The House resolved itself into a Committee of the Whole, Mr. MARTIN in the chair, and

proceeded to the Senate, to attend the trial of Judge Peck.

SATURDAY, January 22.

Pay of Members.

The House resumed the consideration of the joint resolution relative to the pay of members of Congress,

Mr. HALL moved to recommit the resolution to the Committee on Public Expenditures, with instructions to report a bill, providing

"That it shall be the imperative duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives to ascertain, at the end of every session of Congress, from each member of Congress, or delegate from a territory, the number of days which he may have been absent from, and not in attendance upon, the business of the House; and, in settling the accounts of Senators, members, and delegates, there shall be deducted from the account, or amount of pay for each session, at the rate of eight dollars per day for every day any member of either House, or delegate, shall have been absent, except by order, on business of the House to which he belongs, or in consequence of sickness."

On this motion a debate of some length took place, in which Messrs. DRAYTON, SUTHERLAND, HALL, WHITTLESEY, CHILTON, and CARSON, engaged.

Mr. CARSON, as he said, in order to put the question to rest, and to put a stop to debate, moved to lay the resolution on the table.

On this motion Mr. CHILTON required the yeas and nays, and they were ordered accordingly by the House. Being taken, they stood—yeas 50, nays 185.

So the House refused to lay the subject on the table.

A message was received from the Senate, informing that that body was now sitting as a high court of impeachment: whereupon,

The House resolved itself into a Committee of the Whole, and proceeded to the Senate, to attend the trial of the impeachment of Judge Peck.

MONDAY, January 24.

The Judiciary.

Mr. DAVIS, of South Carolina, from the Committee on the Judiciary, submitted a report from the majority of that committee, on the question of repealing the 25th section of the judiciary act of 1789, accompanied by a bill "to repeal the 25th section of the judiciary act of 4th September, 1789."

Mr. BUCHANAN, from the same committee, was desirous to present the report of the minority of the committee; but the SPEAKER stated that the question must first be put on the reading of the bill.

The bill was then read a first time, and a motion made for its second reading; when

Mr. BUCHANAN again moved for leave to present the report of the minority of the committee; but the Chair stated that, as the House could not entertain two motions at a time, that made by the gentleman from Pennsylvania was not now in order. He could have an opportunity hereafter to present the report.

Mr. DODDRIDGE moved the rejection of the bill, and on his motion demanded the yeas and nays.

The SPEAKER stated that the question would be on now giving the bill its second reading; and, if the House refuse to order it to be read a second time, it would amount to a rejection of it.

On the motion to read a second time, Mr. DODDRIDGE demanded the yeas and nays: pending which demand,

A message was received from the Senate, informing that that body was now sitting as a high court of impeachment: whereupon,

The House then, on motion, resolved itself into a Committee of the Whole, and proceeded to the Senate, to attend the trial of the impeachment of Judge Peck.

TUESDAY, January 25.

The Judiciary.

The bill yesterday reported from the Committee on the Judiciary, "to repeal the 25th section of the judiciary act of 1789," was taken up.

Mr. DAVIS, of South Carolina, hoped the bill would be allowed now to be read the second time, and be made the order of the day for Tuesday next; which motion he made.

The SPEAKER said the bill could not take that course, unless the gentleman from Virginia (Mr. DODDRIDGE) would consent to withdraw his opposition.

Mr. DODDRIDGE would not consent.

Mr. BUCHANAN addressed the House. He said the measure proposed was one of great importance, and he wished to give an opportunity for members of the House to express their opinions on it freely and fully, and that their remarks might be sent to the people. He was opposed to hasty legislation on important matters; but if the gentleman from Virginia would withdraw his opposition to the second reading, he would move to postpone the consideration of the bill to Tuesday next. Such a motion, he presumed, would not be in order now.

The SPEAKER—No. The Chair will read the rule of the House, for the information of gentlemen.

[The SPEAKER here read the rule as follows:]

"The first reading of a bill shall be for information; and, if opposition be made to it, the question shall be, 'Shall this bill be rejected?' If no opposition be made, or if the question to reject be negatived, the bill shall go to its second reading without a question."

Mr. DODDRIDGE consented to withdraw his opposition.

Mr. BATES inquired if the consideration of the bill was postponed to Tuesday next, it could then be considered in Committee of the Whole.

The SPEAKER said, after the bill had been read a second time, it could go to a Committee of the Whole, or be otherwise disposed of, as the House might direct.

Mr. MARTIN said, the gentleman from Pennsylvania had expressed his willingness to have a free and full discussion of the subject, and the gentleman from Virginia had no desire to smother it. He (Mr. M.) had been listening for reasons why the bill should not take the ordinary course, but had heard none. The bill was one of vast importance, and he was also in favor of a free and full discussion. He should be sorry that the bill should take a course to prevent his hearing the views of gentlemen on the subject; and he was not sure that he should not take part in a discussion himself. He did not intend now, however, to commit himself.

Mr. BUCHANAN had no disposition, on this or any other occasion, to prevent the freest discussion of the matter before the House. It was for the purpose of assuring himself, on the contrary, that a question should be taken on this bill at the present session, that he had proposed its postponement to this day week. It would thus come up for consideration, as business, of course, on that day. The bill will be, on that day, precisely in the situation in which it is at this moment. It will stand higher on the calendar than it would do were we now to refer it to a Committee of the Whole on the state of the Union. If, on that day, it should be thought an expedient course, the bill can then be referred to a Committee of the Whole on the state of the Union, as well as now. We all know that there are many subjects referred to the Committee of the Whole on the state of the Union, and we know that there is a vast mass of lumber there too. If this subject were referred to that committee, Mr. B. said, such an expression of the opinion of this House upon it, as is due to its importance, and must be expected by the nation, would not be obtained at the present session.

Mr. STORRS, of New York, asked whether the question upon the second reading or rejection of a bill was not a question open to discussion. [The SPEAKER answered that it was.] If so, said Mr. S., then the gentleman from South Carolina, and all others, would have as full opportunity as they desired to debate it, without referring it to a Committee of the Whole.

Mr. DODDRIDGE said that his objection to the second reading of the bill was prompted by the same motives as had influenced the course of the gentleman from Pennsylvania, viz., that he might have it in his power to debate and decide upon this bill. He gave way only to allow of the motion for postponement, and for no other purpose. He should not have made the objection to the second reading, but that he might subject the bill to debate, intending himself fully to discuss it.

Mr. RAMSEY asked how this bill came to be reported. Was there any petition or any instruction to the committee to bring this subject now before the House? If the people of the United States do not ask us to do this thing, said he, we ought not to take it up at all.

Mr. DANIEL said that the Judiciary Committee had been instructed, by a special resolution, to inquire into the expediency of repealing or modifying the 25th section of the judiciary act; and, on considering the subject, they had come to the resolution that it ought to be repealed. Mr. D. had no objection to the proposed postponement for a week.

Mr. ARCHER said, if there is a majority of the House disposed to obtain a decision of this question, they could, at any time, get at it by going into a Committee of the Whole on the state of the Union, should it be referred, as he thought it ought to be, to that committee, where it could be more freely discussed than in the House. This mode of disposing of the bill, was better suited also to the gravity and importance of the question.

Mr. MARTIN said: Was this the ordinary mode in which bills were opposed? The gentleman from Virginia had said that he had made the motion to reject this bill, because it was a debatable one. But certainly all would admit that, in Committee of the Whole, the discussion would be more full, more free, and over a wider field. If the opinion entertained by the gentleman from Virginia, on this subject, was common to a majority of the House, he could at any time obtain a vote to go into committee upon it. The gentleman shakes his head: but he can, at any time, move to go into committee on the state of the Union, because such a motion has preference over any other. On the other hand, the advocates of the bill will not shrink from the investigation of its object. They have no desire to avoid a decision upon it, and will unite with its opponents in bringing it on.

Mr. WICKLIFFE said that he should be very much gratified to have this subject discussed. But he wished to see the bill placed in such a situation as to allow of an amendment being offered to it, for a modification of the 25th section of the old law, which he should prefer to a total repeal of it. Let the bill be read a second time, and then be postponed. When it should again be taken up, it would be open to amendment.

Mr. DODDRIDGE considered the measure to be of as much importance as if it were a proposition to repeal the Union of these States; and for that reason he could not, with his consent, suffer it to take the course of an ordinary bill. If the House should overrule the proposition of the gentleman from Pennsylvania, Mr. D. said he should then renew opposition to the second reading of the bill.

Mr. ELLSWORTH said that he should regret any delay by this House of a decision upon a

question so momentous as this. It was because of its overwhelming magnitude that he would have it acted upon forthwith. He did not believe that there was a gentleman within hearing of his voice, who had, at this moment, any doubt upon his mind as to what his vote would be on this question. It seemed desirable to him, in every view, that this question should be at once decided.

Mr. JOHNSON, of Kentucky, said he should vote in favor of postponement.

[Here the hour for morning business expired.]

By leave of the House, Mr. BUCHANAN then presented the report of the minority of the Judiciary Committee against the measure proposed, and that, together with the report of the majority of the committee, were ordered to be printed.

Judge Peck.

The hour of twelve was here announced by the Chair, and the House, in Committee of the Whole, Mr. MARTIN at its head, proceeded to attend the high court of impeachment.

WEDNESDAY, January 26.

Compensation of Members.

The House resumed the consideration of the joint resolution "relative to the pay of members of Congress;" together with the instructions proposed to be sent to the Committee on Public Expenditures when that resolution was last under consideration.

Mr. HALL proposed a modification of the instructions, by adding to them a proviso that the bill, as proposed, should not have a retroactive operation.

Mr. HOFFMAN was opposed to the recommitment of the resolution, and called for the yeas and nays on the question.

[Here the hour for morning business expired.]

On motion of Mr. SPENCER, of New York, three thousand additional copies of the report of the Secretary of the Treasury on the subject of the cultivation of sugar cane, and the manufacture of brown sugar, recently transmitted to Congress, were ordered to be printed.

Judge Peck.

The House then resolved itself into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to attend the trial before the high court of impeachment.

THURSDAY, January 27.

Compensation of Members of Congress.

The House resumed the consideration of the joint resolution "relative to the pay of members of Congress," together with the motion to recommit.

The yeas and nays were yesterday called for by Mr. HOFFMAN, on the question; but this day the House refused to order them.

After some discussion, the previous question was demanded, and the demand was sustained by the House. [The effect of the previous question was to supersede the motion for recommitment with instructions, and bring the question directly before the House on the passage of the joint resolution.]

The main question being put in the following form: "Shall the joint resolution pass?" it was determined in the affirmative, as follows:

YEAS.—Messrs. Alexander, Allen, Alston, Anderson, Angel, Armstrong, Arnold, Noyes Barber, Barnwell, Bartley, Bates, Baylor, Beekman, J. Blair, Bockee, Boon, Borst, Bouldin, Brodhead, Brown, Burges, Butman, Cahoon, Cambreleng, Campbell, Carson, Chandler, Chilton, Claiborne, Clay, Condict, Conner, Cooper, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Crocheron, Daniel, Davenport, W. R. Davis, Deberry, Denny, Desha, De Witt, Dickinson, Doddridge, Dorsey, Draper, Drayton, Duncan, Dwight, Eager, Earll, Ellsworth, G. Evans, Horace Everett, Findlay, Finch, Ford, Forward, Foster, Fry, Gordon, Green, Hall, Hammons, Harvey, Hawkins, Haynes, Hodges, Holland, Hoffman, Hubbard, Hunt, Huntington, Ihrie, Ingersoll, Thomas Irwin, Jarvis, R. M. Johnson, Cave Johnson, Kendall, Kennon, Kincaid, Perkins, King, Lamar, Lea, Leavitt, Lecompte, Lent, Letcher, Loyall, Lumpkin, Lyon, Magee, Mallary, Martindale, Martin, Thomas Maxwell, Lewis Maxwell, McCreery, McCoy, Mercer, Mitchell, Monell, Muhlenberg, Nuckolls, Overton, Pettis, Polk, Potter, Powers, Ramsey, Rencher, Richardson, Roane, Russel, Scott, William B. Shepard, Aug. H. Shepperd, Shields, Sill, Smith, Speight, Ambrose Spencer, Richard Spencer, Stanberry, Standefer, Sterigere, Stephens, William L. Storrs, Strong, Swann, Swift, Taliaferro, Taylor, Test, Wiley Thompson, J. Thomson, Tracy, Trezvant, Tucker, Vance, Varnum, Verplanck, Wayne, Weeks, Whittlesey, C. P. White, Wickliffe, Wilde, Williams, Wilson, Wingate, Yancey, Young—159.

NAYS.—Messrs. John S. Barbour, Coleman, Crowninshield, Edward Everett, Gaither, Gorham, Grennell, Gurley, Hinds, Hughes, Leiper, Miller, Norton, Patton, Pierson, Rose, Sprigg, Henry R. Storrs, Sutherland, Vinton, Edward D. White—21.

So the resolution was passed, and sent to the Senate for concurrence, in the following form:

"*Resolved by the Senate and House of Representatives*, That the rules of each House shall be so amended as that it shall be the imperative duty of the Secretary of the Senate and Sergeant-at-arms of the House of Representatives to ascertain, at the end of every session of Congress, from each member of Congress or delegate from a territory, the number of days which he may have been absent from, and not in attendance upon, the business of the House; and in settling the accounts of the Senators, members, and delegates, there shall be deducted from the account, or amount of pay for each session, at the rate of eight dollars per day for every day any member of either House, or delegate, shall have been absent, except by order, on business of the House to which he belongs, or in consequence of sickness."

Lands between Ludlow and Roberts' Lines.

The House then, on motion of Mr. STERIGERE, went into Committee of the Whole, Mr. HOWARD in the chair, and took up the bill from the Senate, to "amend an act to quiet the title of certain purchasers of lands between the lines of Ludlow and Roberts, in the State of Ohio," together with certain amendments proposed by the Committee on Private Land Claims.

[This subject has been long before Congress, and the debate on the merits of the case repeatedly published in the Intelligencer. General McArthur and Philip Doddridge, as agents for others, were the owners of certain lands between the lines of Ludlow and Roberts, in the State of Ohio. These lands had been sold to other individuals by the United States, believing them to be a part of the national domain, and the proceeds were paid into the Treasury. Under this state of things, Doddridge had commenced suit against the purchasers, and the United States made themselves defendants in the case. In the Supreme Court, a decision was made in favor of Doddridge. After that decision, Congress passed an act for the survey of the lands, and authorizing the appointment of commissioners to appraise their value. When their report was made, the President of the United States was authorized to treat with McArthur and Doddridge for a settlement of their claims, in order to quiet the titles of those who had purchased from the United States. McArthur agreed to receive for his lands the valuation fixed by the appraisers. Doddridge demanded the same sum, with interest, that had been paid into the Treasury. An act had passed Congress, at the last session, appropriating a sum of money for quieting these titles; and the bill at present reported was to make a further appropriation, to the use of Mr. Doddridge, for one of the surveys, which he had already ceded to the United States, but for which the act before named did not make sufficient compensation.]

A debate of some duration took place between Messrs. STERIGERE, MCCOY, WICKLIFFE, VINTON, and PETTIS. It consisted chiefly, however, of explanations, and a statement of the principles on which the bill before the House was founded. Mr. STERIGERE moved that the proposed amendments be rejected.

Mr. TREZVANT had risen to speak, when

A message was received from the Senate.

The SPEAKER immediately took the chair, and the Secretary of the Senate announced that that body was now sitting as a high court of impeachment.

Judge Peck.

The House then went into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate chamber, to attend the high court of impeachment sitting for the trial of Judge Peck.

Having returned, and reported progress,

The House again resumed, in Committee of the Whole, the bill which was before that committee in the morning relative to lands between Ludlow and Roberts' lines: without continuing the debate, the committee rose, and reported progress, and had leave to sit again.

FRIDAY, January 28.

Surplus Revenue.

Mr. POLK, from the Select Committee to which was referred so much of the Message of the President of the United States, at the commencement of the session, as relates to the distribution of the surplus revenue, made a report, which was ordered to lie on the table.

A motion was made to print 6,000 copies of the report; which motion lies one day on the table.

Mr. WHITE, of New York, moved for the printing of 3,000 copies of the reports of the majority and minority of the Committee on the Judiciary, relative to repealing the twenty-fifth section of the judiciary law of 1789; which motion lies one day.

The Judiciary.

Mr. LECOMPTE submitted the following:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of amending the Constitution of the United States, so that the judges of the Supreme Court and of the inferior courts shall hold their respective offices for a term of years.

Mr. WHITTLESEY demanded the question of consideration, and

Mr. VANCE called for the yeas and nays on the question.

They were ordered by the House, and, being taken, stood—yeas 61, nays 115.

So the House refused to consider the resolution.

Expenses of the Impeachment.

Mr. ELLSWORTH stated that the witnesses attending on the trial of Judge Peck could not be discharged until they were paid; and he moved to suspend the consideration of any other business on the table, for the purpose of taking up the bill.

The motion was agreed to, and the House went into Committee of the Whole, Mr. DWIGHT in the chair, and took up the bill "making provision for the compensation of the witnesses, and other expenses attending the trial of Judge Peck," together with the amendments reported by the Committee on the Judiciary.

[The gross sum proposed to be appropriated by the Senate's bill, amounted to $12,000; by the proposed amendments, that amount was increased to $13,500.]

Mr. POLK said the bill provided for the compensation of the witnesses, both on the part of the United States and the respondent. In all

State prosecutions, the defendant always paid his own witnesses, and he thought the United States would do enough to compensate the witnesses on the part of the prosecution. He requested information as to what had been the usage in former cases of impeachment under this Government.

Mr. ELLSWORTH replied that, in the case of Judge Chase, the United States had paid the witnesses on both sides. He was not positive as to the other cases. He would remark, that it would tend to the utter ruin of any individual brought before the Senate of the United States for trial, if he were to be compelled to compensate his own witnesses. It was right and proper that the Government should pay all the witnesses attending trials of impeachments; and whether Judge Peck should or should not be cleared, it was obvious that, if he were to be compelled to pay his witnesses, he was a ruined man.

Mr. CAMPBELL was in favor of the bill as proposed to be amended. If a precedent was now established, that the United States were not to pay witnesses on behalf of the persons accused in trials of impeachment, no future prosecution would take place, however aggravated might be the offence committed. No man would undertake it. There was no analogy between the ordinary trials in the States and a trial in the Senate of the United States. In the latter, witnesses had generally to be brought from a distance, often very great, as in the present case, and their detention here was both long and expensive. What possible chance was there, he would ask, that an individual could clear himself of an alleged crime, if he was obliged to pay his own witnesses? No man could clear himself, for no man could afford the expense. In his opinion, for the United States to refuse to pay witnesses in trials of the kind referred to, would amount to a positive denial of justice.

The question was demanded, and the amendments offered by the Judiciary Committee were agreed to.

The committee reported the bill as amended; the amendments were agreed to, and the bill ordered to be read a third time to-morrow.

Lands between Ludlow and Roberts' Lines.

The House resumed, in Committee of the Whole, the bill "to amend the act to quiet the title of purchasers of the public lands between the lines of Ludlow and Roberts, in the State of Ohio," Mr. HOWARD in the chair.

Some further conversation took place between Messrs. TREZVANT, WICKLIFFE, and VINTON, when the amendments proposed by the Committee on Private Land Claims were disagreed to, and the committee rose, and reported the bill to the House.

The House concurred with the Committee of the Whole in rejecting the proposed amendments, and the bill was ordered to be read a third time to-morrow.

Judge Peck.

The hour of 12 having arrived, the House again resolved itself into a Committee of the Whole, Mr. MARTIN in the chair, and proceeded to the Senate to attend, before the high court of impeachment, the trial of Judge Peck.

SATURDAY, January 29.

The Judiciary.

The bill to repeal the 25th section of the judiciary act, passed on the 4th September, 1789, coming up, the question being on the motion of Mr. BUCHANAN to postpone the motion that the bill be read a second time on Tuesday next—

Mr. CRAWFORD, after a few remarks, demanded the previous question; which was the motion of Mr. DODDRIDGE that the bill be rejected.

The demand was sustained—yeas 81, nays 69.

The question was then put, "Shall the main question be now put?"

And it was determined in the affirmative—yeas 75, nays 68.

The main question was then put, viz.: "Shall the bill be rejected?"

And it was determined in the affirmative as follows:

YEAS.—Messrs. Anderson, Armstrong, Arnold, Bailey, Noyes Barber, John S. Barbour, Barringer, Bartley, Bates, Baylor, Beekman, John Blair, Bockee, Boon, Borst, Brodhead, Brown, Buchanan, Burges, Butman, Cahoon, Chilton, Clark, Condict, Cooper, Coulter, Cowles, Craig, Crane, Crawford, Crockett, Creighton, Crocheron, Crowninshield, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Dorsey, Drayton, Dwight, Eager, Earll, Ellsworth, G. Evans, Joshua Evans, Edward Everett, Findlay, Finch, Forward, Fry, Gilmore, Gorham, Green, Grennell, Gurley, Halsey, Hemphill, Hodges, Holland, Hoffman, Howard, Hubbard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, William W. Irvin, Thomas Irwin, Johns, Cave Johnson, Kendall, Kennon, Kincaid, Perkins King, Adam King, Leavitt, Leiper, Lent, Letcher, Magee, Mallary, Martindale, Lewis Maxwell, McCreery, McDuffie, McIntire, Mercer, Miller, Mitchell, Monell, Muhlenberg, Norton, Pearce, Pierson, Powers, Reed, Richardson, Rose, Russel, Sanford, Scott, William B. Shepard, Augustine H. Shepperd, Shields, Sill, Speight, Ambrose Spencer, Richard Spencer, Sprigg, Standefer, Sterigere, Henry R. Storrs, William L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, J. Thomson, Vance, Varnum, Verplanck, Vinton, Washington, Weeks, Whittlesey, C. P. White, Edward D. White, Williams, Wilson, Wingate, Young —138.

NAYS.—Messrs. Alexander, Allen, Alston, Angel, Barnwell, Bell, James Blair, Bouldin, Cambreleng, Campbell, Chandler, Claiborne, Clay, Coleman, Conner, Daniel, Davenport, W. R. Davis, Desha, Draper, Foster, Gaither, Gordon, Hall, Harvey, Haynes, Hinds, Jarvis, Richard M. Johnson, Lamar, Lecompte, Lewis, Loyall, Lumpkin, Lyon, Martin, Thomas Maxwell, McCoy, Nuckolls, Overton, Pat-

ton, Pettis, Polk, Potter, Roane, Wiley Thompson, Trezvant, Tucker, Wickliffe, Wilde, Yancey—51.

So the bill was rejected.

Brown Sugar.

The House resumed the consideration of the resolution submitted by Mr. HAYNES some days since, relative to brown sugar.

Mr. WHITE, of Louisiana, said, that when this subject came up in order, it was laid over for a specific object. I, myself, moved its postponement, as well from my own conviction of the propriety of the step, as at the instance and suggestion of some other gentlemen. The object alluded to was, to let in a report on the subject, which we were daily expecting to receive from the Treasury Department, in compliance with a call from this House. That report, sir, has since been sent in, but, being of some volume, the public printer has not had time enough to lay it on our tables. This circumstance I regret as much as any one can; yet it does present the question, how far it is proper to proceed without it. Several gentlemen have mentioned the subject to me; and one among the number intimated that, if I did not move its further postponement, he would. As to myself, it does appear to me that it would not be over respectful to the gentleman who presides in the department, to take no heed of a document which we have caused him to prepare with no inconsiderable labor. Besides, I feel that I shall be wanting in deference to the people where I live, if I neglected to use, and to imbue the House, as far as depends on me, with a knowledge of the facts which they have taken so much pains to embody. There is another consideration: we are bound by the rule we have adopted to attend in the Senate, during this week, on the debate of the impeachment we have preferred against Judge Peck. The hand on the dial plate indicates that but five minutes could now be allotted to the subject. For these reasons, sir, I move its further postponement until next Wednesday, in the hope that it may be then taken up, and prosecuted to a termination.

The motion prevailed.

MONDAY, January 31.

Judge Peck.

The House then, on motion of Mr. SPEIGHT, resolved itself into a Committee of the Whole, Mr. CAMBRELENG in the chair; and, on motion of Mr. HAYNES, proceeded to the Senate, to attend the further trial of Judge Peck before the high court of impeachment. Having returned, the chairman reported that the committee, in pursuance of the order of the House, had attended the trial of Judge Peck; and that the Senate had pronounced judgment in the case, and, by a vote of 22 to 21, had refused to sustain the impeachment preferred by the House; and that the court had adjourned *sine die*.

Illinois and Michigan Canal.

The House proceeded to the consideration of the motion made on the 6th instant, to reconsider the vote by which was rejected the bill to authorize a change in the disposal of the land granted for the construction of the Illinois and Michigan Canal.

Mr. DUNCAN hoped the motion for reconsideration would prevail, and that the bill would be made the order of the day for some day certain; and he called for the reading of the report of the Committee on Public Lands, which committee reported the bill. It was read by the Clerk.

Mr. VANCE said that, when the bill was taken up before, he was desirous of offering an amendment, with a view to meet the views of gentlemen. If no other member did, he should take occasion, if the House agree to reconsider the bill, to submit an amendment, so as, if possible, to meet the views of gentlemen, and secure the passage of the bill in the best possible shape.

Mr. DUNCAN remarked that the gentleman who had made the motion to reconsider, had stated to the House, at the time of doing so, that he did it with a view to offer an amendment, proposing to appropriate money, in lieu of scrip, to aid the State of Illinois in the construction of the proposed canal. If gentlemen would prefer the appropriation of money, he had no objection; though, for his own part, he should be perfectly satisfied with scrip. Gentlemen were mistaken in the idea that the scrip would be sacrificed. Lands to the amount of $360,000 had been sold in the State of Illinois the last year; it was proposed by the bill to apply but $50,000 worth of scrip in a year; and it was evident that it would be equal to money in the hands of the State.

Mr. BELL had voted for the original bill, and stated the grounds upon which he did so. He should be opposed to an amendment like the one suggested, and could not vote for the reconsideration, though he had voted for the bill originally.

Mr. VANCE said that, for himself, he was willing to take the bill as it was; but it did not appear to be so framed as to satisfy gentlemen; and with a view to give more general satisfaction, the motion had been made to reconsider, so as to submit the amendment suggested.

Mr. IRVIN, of Ohio, with a view, as he said, to have done with the subject, for the present session, moved to lay the motion for reconsideration on the table.

The motion was negatived.

The question was then put upon the reconsideration of the vote by which the bill had been rejected, and was decided in the negative—yeas 82, nays 109.

James Monroe.

The House took up the bill for the relief of James Monroe.

The question was taken on agreeing with the Committee of the Whole in striking out the enacting clause of the bill, and decided in the negative—yeas 80, nays 109.

Mr. MERCER then moved to strike out all after the enacting clause of the bill, and insert the amendment which he had before read. Pending which motion,

Mr. WILLIAMS moved an adjournment.

Mr. DAVIS, of Massachusetts, hoped the gentleman would withdraw the motion for one minute, to enable him to ask leave of absence for his colleague (Mr. GORHAM) for ten days.

Mr. WILLIAMS consenting, leave was granted, as requested.

TUESDAY, February 1.

Amendment of the Rules.

The resolution of Mr. POTTER, to amend the rule which limits debate on resolutions and the presentation of reports to one hour in each day, was again taken up.

[When this resolution was under consideration a few days ago, Mr. POTTER made a few observations in regard to it, one of which produced a general smile in the House. Adverting to the operation of the rule which limits the consideration of resolutions to a single hour on each day, frequently cutting off a speech which might have been near its conclusion but for the intervention of the rule, he said that the effect of it was to give time to the orator to recuperate, and resume his speech the next day with fresh materials and fresh vigor. Mr. P. had scarcely pronounced these words, when the Speaker apprised the gentleman that the hour had expired, and he must suspend his further observations for this day. Whereupon, Mr. P. observed that there could not have been a better illustration of the remark which he had just made, than that which the present case furnished, if he should feel disposed to avail himself of the interval of a day to prepare a set speech.]

Mr. POTTER spoke of the numerous and complicated rules of the House, and of the many instances in which gentlemen were declared to be out of order, from the want of a proper knowledge of them. He concluded by moving to refer the resolution to a Select Committee, with instructions to amend the rules generally.

Mr. MERCER had one suggestion to make. By the present rule of the House, should the previous question be demanded, and sustained, it shut out all amendments which had been previously made to a bill, and the question recurred on the original bill itself. He hoped that the rule would undergo an amendment, so as to avoid this singular operation.

The resolution was then agreed to.

Wood for the Poor of Georgetown.

The SPEAKER laid before the House a letter from the Mayor of Georgetown, relative to the distressed situation of the poor of that city, and soliciting the House to grant a donation of some of the wood in the vaults of the capitol for their present use.

Mr. WASHINGTON would not take up the time of the House in explaining the necessity for acting immediately on the application just made. The letter sufficiently explained itself, and he should content himself with simply submitting the following resolution:

Resolved, That the Clerk of the House is hereby authorized and directed to cause thirty cords of wood to be delivered to the order of the Mayor of Georgetown, for the use of the suffering poor of that town.

Mr. POLK knew it was an ungracious task to oppose a resolution in behalf of the suffering poor of this District, or any other country. He must be permitted to remark, however, that the precedent of appropriating the public funds for such purposes was a bad one. The resolution now before the House had come upon it suddenly, and it was not of sufficient consequence to move its postponement. He recollected that, some years ago, there was a fire in the District, to be seen from the windows of the capitol, and an application was immediately made for extending relief to the sufferers. While he was disposed to do full justice to the motives which prompted members, on that occasion, to draw money from the Treasury for the relief of the sufferers, he would ask, was the course adopted a proper one? Was the obligation to contribute to the relief of sufferers within the ten miles square, greater than to those of other parts of the Union? The very same day that the fire occurred in Alexandria, property, to a far greater extent, was destroyed by the same element in Cincinnati, Ohio; but he had never heard that those sufferers applied to Congress for relief. There were many sufferers in the United States—many objects of charity—but they did not call upon Congress to help them. Continue to pass resolutions of the character of that now before the House, and what would be the consequence? Why, every winter, when the snow fell, or the Potomac was frozen over, applications would be made to Congress, and members would be engaged in the dignified object of buying and stowing wood, to give to the poor of the District of Columbia. Mr. P. remarked that, in opposing the resolution now under consideration, he did it on principle: the House had not the power to make the donation requested. He might be told that Congress was the exclusive Legislature for the District. Be it so. But was that any good reason that they should give away all the revenue of the nation to the people of the District of Columbia? If so, the poor of the other sections of the country had nothing to do but to come and sit down here, in this District, and apply to Congress for relief. It was not to the amount proposed to be given that he objected—no, not the paltry cost of thirty cords

of wood; but he would state that gentlemen came here to legislate on the great concerns of the Union, and not to give away the public property. It was not money from the Treasury, but the expense was to be defrayed by the contingent fund of this House. That fund was voted for the use of the House; there should be some discretion in its application; and if we may give away a part of it, for purposes other than for what it was intended, we may give away the whole. He might well address himself on this occasion, to those who, by the operation of the previous question, had cut off all opportunity of remark on a former similar subject. Their motives were kind, no doubt, and he gave them credit for them; a severe storm was raging, and they yielded to their feelings as men. No such reason could be urged now, however; for the present was one of the most pleasant days they had enjoyed for some time. But it was said the poor of Georgetown were suffering—so may be the poor of New York, and other sections of the Union. In conclusion, he trusted that the House would, by its vote to-day, put a check to legislation on matters of this sort.

Mr. BLAIR, of South Carolina, contended that it was not competent for the House to vote donations of fuel for the people of the District. If so, it would have power also to vote millions of the public money to feed and clothe the suffering poor of the District. The House had no right to give away the public money for any such purpose; and if gentlemen were disposed to be liberal, let them be liberal out of their own money. He, therefore, moved the following substitute, by way of amendment, viz:

"That the Sergeant-at-arms be required to deduct from the compensation of the members of this House one day's pay, and deliver said sum to the Mayor of Georgetown, to be applied to purchase fuel for the paupers of that town: Provided, nevertheless, that such deduction shall be made from the compensation of such members only as vote in favor of this resolution."

Mr. POLK asked for the yeas and nays on the amendment, observing that he would vote for it with the greatest pleasure.

Mr. STORRS, of New York, asked, what was the Legislature of the District of Columbia? As the answer to that question would imply the power of the House to grant the proposed relief, yet not to grant a similar relief to the people of Ohio, or any other State having its own Legislature, Congress stood in the same relation to this Territory as the Legislature of New York did to hers. He concluded a few remarks, by demanding the previous question.

The call was seconded, 90 to 86; and the main question was ordered.

The effect of this decision being to set aside the amendment of Mr. BLAIR, the question was put on agreeing to the resolution, and decided, by yeas and nays, in the affirmative—yeas 108, nays 79.

Judicial Contempts.

Mr. DRAPER, of Virginia, by leave of the House, submitted for consideration the following resolution:

Resolved, That the Committee on the Judiciary be directed to inquire into the expediency of defining by statute all offences which may be punished as contempts of the courts of the United States.

Mr. DRAPER said that he had offered this resolution under the deepest sense of duty. It was not his intention, he said, on this occasion, to agitate a question which had been recently much agitated elsewhere. But, said he, I do wish to know upon what tenure the people of this country hold their liberties. I wish to know whether, if I myself choose to go into the public newspapers to vindicate any vote I give here, it be not competent for any man, who thinks proper to do so, to enter the same forum, upon equal ground, to show that my opinion is wrong. If I, as a member of this House, or this House as a body, should set forth to the world any opinion upon a matter before us, has not any one a right, through the same medium, to question the correctness of that opinion? Does not that opinion, from the moment of its publication, become public property? Does it not present as fair a subject for discussion as any that can be presented to the mind of man? The object of such a publication of an opinion is to convince the readers of it that a certain proposition is right. If the object of a publication be to convince the public at large that any particular proposition agitated here is correct, is it not competent for any citizen to call into question the correctness of such an opinion? Surely it is. If, then, we have not the power of promulgating our opinions, under the protection of a garb of official sanctity, I should like to know if any other department of the Government has a right to go before the public with a vindication of its opinions, without any citizen who chooses having the right of reply to them, or comment upon them. This body has, I admit, a right to preserve decorum and order within these walls, and to remove from within them any one who may disturb the proceedings of this House. But if, after having acted upon any subject, a majority of this House shall choose to go into the newspapers, to state the grounds on which we have acted, I maintain that any citizen whatever has a right to meet us there, and contest those grounds. Any solitary individual has, under such circumstances, a right to meet and confront the whole body of the majority of this House. If this reasoning apply to the legislative body, does it not, in an equal degree, apply to every other department of the Government? I maintain that it does. Whenever an individual in office lays aside his official capacity, and endeavors by argument and reason to convince others that any thing which he has

done officially, has been done properly, he has a right to be met by whomsoever, differing in opinion from him, in any forum which he himself may select. Believing this, I have prepared this resolution, under a deep sense of the duty which I owe, not only to myself, but to the sixty thousand freemen whom I represent on this floor. I am not for holding my liberty for one moment at the discretion of any individual. It may be said, sir, in opposition to the object of this resolution, that there will be difficulty in defining contempts of court. Though this may be true, we shall find no difficulty in defining what are not contempts. We can embrace, in any legal provision on this subject, many cases which are not contempts. We might say, for example, that it would not be a contempt of court to express an opinion upon any decision finally made in court, &c. We might declare that it should not be a contempt of court in any one to say that a judge is not immaculate. I beg not to be understood, said Mr. D., as here referring to a case which has been lately before the other branch of this Legislature, sitting as a high court of impeachment. Far be it from me to reflect upon the conduct of any individual, who for such conduct has been constitutionally tried, and legally acquitted. But the law ought to be so clear, that every individual may be able to look to the statute book, and know whether, in any thing that he may do, he acts within the law or not. For the security of the rights of the whole people, and for no purpose of invidious allusion or personal gratification, I invite this inquiry. It is proper, sir, that every individual in the community should know what are the laws which he is bound to observe at the peril of his liberty.

Mr. DODDRIDGE, concurring with his colleague in the expediency of this inquiry, suggested to him the propriety of modifying his resolution, by adding to it these words: "and also to limit the punishment for the same."

Mr. DRAPER accepted this modification.

Thus modified, the resolution was agreed to.

Claim of James Monroe.

The House took up for consideration the amendment yesterday submitted by Mr. MERCER to the bill for the relief of James Monroe; which was as follows:

"Strike out from the bill all that follows the enacting clause and insert—

"That the proper accounting officers of the Treasury, under the supervision and direction of the Secretary of War, and subject to the approval of the President of the United States, be, and they are hereby, authorized to adjust and settle all the accounts and claims of James Monroe, late President of the United States, upon principles of justice and equity.

"*And be it further enacted*, That, so soon as any amount shall have been found due to the said James Monroe, it shall be paid to him out of any money in the Treasury not otherwise appropriated."

Mr. WILLIAMS moved to amend the amendment, by striking out all after the word Treasury, and inserting the following:

"Be, and they are hereby, authorized and directed to examine and adjust all the accounts and claims of James Monroe, late President of the United States, upon the principles of justice and equity.

"*And be it further enacted*, That the amount of the several accounts and claims, when examined and adjusted, in the manner aforesaid, together with the principle on which each item is founded, shall be reported to Congress for final decision and allowance."

Mr. WILLIAMS addressed the House in support of his amendment.

Mr. SPENCER, of New York, preferred the amendment, submitted by Mr. MERCER, to that then under consideration.

Mr. CHILTON addressed the House at some length against the claim, and replied to the remarks of Messrs. SPENCER, EVERETT, and MERCER. Of the two, he had a preference for that of Mr. WILLIAMS, but thought Congress, instead of Mr. Hagnêr, should settle the claim.

Mr. STORRS, of New York, thought it would be perfectly safe to refer the accounts of Mr. Monroe to the accounting officers. He hoped they would be settled by them, and never come before Congress again.

Mr. HUNTINGTON would vote for the amendment of Mr. WILLIAMS, and trusted that, if that should not prevail, the House would act upon the matter at once.

Mr. MALLARY was decidedly in favor of the claim, and would have been willing to relieve the distinguished individual referred to from all his embarrassments. He should support the amendment of the gentleman from Virginia.

Mr. DRAYTON thought enough had already been allowed to Mr. Monroe. He referred to former legislation of the House, and spoke, not hearing the arguments of others, but from his own experience.

Mr. ANGEL addressed the House as follows:

Sir, if it be now in order to advert to the merits of this claim, I will take the liberty to express my opinion upon them. I am aware of the ungracious office I have to perform in opposing this claim. A claim identified with the name, and services, and sufferings of James Monroe, is calculated to draw to it a generous feeling, and to inspire a confidence in its merit.

In 1826, a portion of this claim, together with other items, was pending before Congress. The subject elicited great interest, and underwent a thorough investigation by the members of this House at that time. I then had the honor of a seat here; it became my duty to act upon it, and I bestowed great attention upon its merits. I sat down to an examination with feelings of strong predilection in its favor. I had a high veneration, and boundless regard, for the character and services of the man. I felt an earnest desire to find proofs which would authorize me to give it my support. I

will not say that I examined it impartially; for my feelings strongly preponderated in favor of the claimant. I was reconciled, then, to an allowance of a portion of the thirty thousand dollars then allowed him; but such was the result of my examination, that I was compelled to vote against the allowance of the whole amount.

Previous to presenting the claim to Congress, Mr. Monroe had applied to the proper department for its allowance. It had undergone the examination and decision of gentlemen who were then in the Administration. The examination by the department took place at a period when the facts and the circumstances connected with the claim were fresh in the recollection and clearly within the knowledge of those whose duty it then was to pass upon it. The gentlemen of the department who then audited and liquidated Mr. Monroe's claims, were his contemporaries in service, and were his personal and political friends. Not satisfied with their rejection of certain items for extra expenses, and for interest, he presented the question to Congress, and asked that those items might be settled by that body, upon principles of justice and equity. After a lapse of more than fifteen years from the time the subject was passed upon by the department, Congress was induced to pass a bill allowing, in addition to the allowances by the department, the sum of twenty-nine thousand five hundred dollars, which was then deemed and considered by the majority of Congress who voted the allowance, to be an ample and liberal liquidation and payment of all that was due to Mr. Monroe, upon principles of law, justice, and equity; and inserted a clause in the bill, declaratory of its being in full of all his claims upon the Government. It seems that further justice and equity are now called for. If the bill of 1826 was a satisfaction in full of all his claims, the appropriation to be made by the present bill, if it became a law, must be a donation, and not a payment. The Congress of 1826 became the arbiters between Mr. Monroe and the Treasury Department. Their award was obligatory upon the Treasury to pay; and, under the terms of the act, the acceptance of the money by Mr. Monroe cannot but be considered as obligatory upon him. Reciprocity of obligation upon the parties must be irresistibly implied.

In looking into the report of the committee of last session, who reported the bill under consideration, it will be seen that upwards of twenty-four thousand dollars now reported as being due to Mr. Monroe, and incorporated in the bill, consists of items rejected by the Congress of 1826. Three thousand dollars and upwards, of this latter sum, is for contingent expenses, alleged to have accrued in England and France during his mission to those countries. In 1826, when his claim for contingent expenses was before the committee, they allowed him for those expenses a sum equal to the average allowed to other Ministers in like cases. His charge for those expenses was not backed by vouchers, but exhibited in gross. The charge was found to exceed the average allowed to other Ministers by upwards of three thousand dollars, and the excess was therefore rejected by that committee. The balance of this twenty-four thousand dollars is made up of interest alleged to have accrued upon his claims against the Government previous to December, 1810, at which time he exhibited his accounts, and settled with the department. The committee of 1826 rejected this interest, on the ground that its allowance would be contrary to the usage of the Government in all other cases. It was upon the principle that no *laches* were imputable to the Government; that it was always ready to pay its creditors when they should exhibit their accounts, and demand payment. This principle is in consonance with the principles of the common law, which declares that an unliquidated demand shall not draw interest, though the creditor may omit to make his demand for years. This rule prevails both in law and equity, and the allowance of this interest would be a perversion of the established rule of each. Sir, I object to its allowance in this case, for the reason that it would be a manifestation of fickleness on the part of the Government. It would be an innovation upon its fixed and established rules; those rules to which the claims of all its creditors are subject. Adopt this principle in your settlements, and there are claims enough of this description, to draw from your Treasury many millions of dollars. Give notice, by the establishment of this precedent, that such claims are allowable, and you will be overwhelmed with them. Suppose you relax the rule in this particular case only, what will the next claimant say to you when you reject his claim, predicated upon the identical principle with this? Will he not have a right to demand of you even-handed justice? and will he not have just grounds for murmur and complaint, if you try his claim by one rule, and Mr. Monroe's by another?

Sir, it is our pride, and our every day's boast, that our citizens all enjoy equal rights and are all entitled to equal privileges. What room for comment upon your boasted equality would not the allowance of this claim afford?

In 1286, the item exhibited for services and disbursements amounted to about eighteen thousand dollars. The excess then claimed over that sum was exclusively for interest accrued upon it. The principal was reduced by deducting from it the three thousand dollars before mentioned, and Mr. Monroe was allowed, by the bill passed at that session, above fifteen thousand dollars of the principal of his alleged demand, with the interest on the same from December, 1810, up to the passage of that act; which interest amounted to more than fourteen thousand dollars.

Should we now allow the twenty-four thousand dollars then rejected, we should pay to Mr. Monroe the eighteen thousand dollars of principal he then claimed, with upwards of thirty-

five thousand dollars interest upon the same. No such claim ever was, or ever should be, allowed by this Government. Since 1826, several additional items have been annexed to those then claimed. The merits of these items have been canvassed, and clearly explained upon this floor, by gentlemen who have preceded me in opposition to this bill. I will not say that these additional items have since been hunted up, as an apology for allowing to Mr. Monroe a sum of money; but I will say, that it appears to me extraordinary that they should have been omitted when the claim was before presented. I have examined them, and I concur with the gentlemen who have represented their utter groundlessness. It is unnecessary to repeat their arguments, and I will not detain the House by doing so.

We have heard it alleged in this debate that the people of this country desire the allowance of this claim, and that, should its decision be submitted to them, they would be nearly unanimous in its favor. Sir, it is possible that, if it should go to them under the partial representations of its friends in this House, they would declare in favor of its justice; but should the other side of the story be told them—should they be told, as is the fact, that Mr. Monroe had, within the last thirty-four years, received the sum of about four hundred thousand dollars for his services and expenses, which amounts to an allowance of over thirty dollars a day for all that time; that, in addition to this allowance, we voted him money enough in 1826 to load a wagon with Spanish milled dollars, and that we were now called upon to give him sufficient to load two other wagons, it is not so clear to me that they would call us illiberal or ungrateful for withholding it.

Sir, a pecuniary debt to an individual for services rendered, and moneys disbursed, is one thing; a debt of gratitude for his patriotic devotion and unyielding fidelity to the cause of our country, is another. Could I find, amongst the proofs exhibited, the evidence of a pecuniary indebtedness to Mr. Monroe, I would be amongst the first to vote its payment. That we owe him a debt of gratitude, I most cheerfully acknowledge; and when a proposition shall be made to grant him a sum of money as a donation, or pension, I shall be prepared to act upon it. How I should act, is now unnecessary to say. "Sufficient for the day is the evil thereof." I cannot reconcile my judgment to voting a donation, under color of paying off a pecuniary demand.

Mr. CROCKETT remarked, that the talking of gentlemen would not change a single vote, and he therefore demanded the previous question; but withdrew the demand on being informed of its effect

Mr. HAMMONS renewed the demand.

The demand was not sustained by the House.

Mr. WILLIAMS then called for the yeas and nays on his amendment.

Mr. MERCER replied to those gentlemen who had spoken in favor of the amendment of the member from North Carolina, and referred to the statute book to show that seventy-seven cases had been settled on the principles of justice and equity, since the establishment of the present Government.

After a short explanation by Mr. WILLIAMS, the question was put on the amendment offered by him to Mr. MERCER's amendment, and decided in the affirmative—yeas 109, nays 81.

The question then occurring on the amendment of Mr. MERCER, as amended by the amendment of Mr. WILLIAMS,

Mr. HEMPHILL inquired if it would be in order for him to offer an amendment, to supersede that now before the House.

The SPEAKER said it would not be in order; but if the House refused to agree to the amendment now under consideration, the gentleman would then have an opportunity to offer his proposition.

Mr. HEMPHILL desired that the amendment he held should be read, and it was read by the Clerk, as follows:

"Whereas James Monroe has repeatedly memorialized Congress, concerning certain claims: and whereas several committees of the House of Representatives have reported favorably thereon: and whereas, from the lapse of time, and other causes, an accurate opinion cannot be formed as to the amount, leaving a compromise as the only alternative: therefore,

"*Be it enacted, &c.*, That, for public services, losses, and sacrifices, the sum of thirty-six thousand dollars is hereby appropriated, to be paid to James Monroe, immediately after the passing of this act, out of any money in the Treasury not otherwise appropriated; which shall be in full of all demands of the said James Monroe for his claims as aforesaid."

The yeas and nays were then ordered on agreeing to Mr. MERCER's amendment as amended; and,

The question being finally put thereon, it was decided in the negative,—yeas 88, nays 92.

So the amendment as amended was rejected.

The question then recurred on ordering the original bill to be engrossed for a third reading.

On this question Mr. HAYNES demanded the previous question; pending which demand,

Mr. MCCOY moved an adjournment; which prevailed.

WEDNESDAY, February 2.

Salt Springs in Illinois.

Mr. IRVIN, of Ohio, from the Committee on the Public Lands, reported a bill for the sale of lands in the State of Illinois, reserved for the use of the salt springs on Vermillion River, in that State; which was twice read.

Mr. I. moved that it be made the special order of the day for Monday next; but the motion did not prevail.

Mr. I. then moved the third reading of the bill.

Mr. McCOY said that the practice of the House was not what it ought to be. He was tired of hearing the many motions submitted to make bills the special order of the day—thus giving one subject a preference over others. He moved the commitment of the bill.

Mr. IRVIN, of Ohio, explained the object of the bill. It provided for the sale of certain lands in Illinois, reserved for the use of salt springs. The sales of similar lands had taken place in Ohio and other States, for the use of those States; and he could see no good reason why the same course should not be pursued towards Illinois.

Mr. DUNCAN hoped that the gentleman from Virginia (Mr. McCOY) would not urge his motion to refer the bill to a committee, as such a disposition of it would be equivalent to its rejection. The bill had been reported in conformity with a memorial from the Legislature of the State, and he understood that the proceeds of the sale were to be applied to objects of internal improvement in the State, and the improvement of the navigation of the Wabash River. This subject had been several times before the Committee on the Public Lands, where it had met with some opposition; but that committee was now unanimously in favor of the bill just reported, and he hoped the House would now pass it without further delay.

Mr. McCOY having withdrawn his motion, the bill was ordered to be engrossed for a third reading to-morrow.

James Monroe.

The House took up the bill for the relief of James Monroe—the question being on ordering it to be engrossed for a third reading.

Mr. HAYNES, at the time of adjournment, yesterday, had demanded the previous question; but the House this day refused to sustain the demand.

Mr. HEMPHILL moved the amendment which was yesterday read at his request, viz:

"Strike out of the bill all after the word 'That,' and insert—

"For public services, losses, and sacrifices, the sum of thirty-six thousand dollars is hereby appropriated, to be paid to James Monroe, immediately after the passing of this act, out of any money in the Treasury not otherwise appropriated; which shall be in full of all demands of the said James Monroe for his claims aforesaid."

Mr. HEMPHILL declined entering into any argument in favor of his amendment. Various sums had been suggested as proper to be appropriated; he had fixed, after some attention to the matter, on that proposed in his amendment.

Mr. HAYNES said that, if for no other reason, he should oppose the amendment, because the claim seemed to be put up to the highest bidder. He had given the subject some attention, and was convinced there was not a dollar due Mr. Monroe.

Mr. CHILTON said he would make one more attempt to get rid of the subject, and with that view he moved to lay the bill and amendment on the table. Negatived—yeas 84, nays 111.

The question recurring on the amendment of Mr. HEMPHILL,

Mr. TUCKER opposed the amendment. He had examined the matter with considerable attention, and could not discover that Mr. Monroe had any claim upon the Government. He viewed the whole concern in the light of a donation.

Mr. CLAIBORNE called for the yeas and nays on the amendment, and they were ordered.

Mr. WILLIAMS referred to the concluding clause of the amendment, and asked if it would be of any avail. The act formerly passed for the relief of James Monroe contained a similar provision, but it had not prevented the introduction of the present bill.

Mr. PATTON said he did not like the form of the amendment, yet, as he was disposed to go for the substance he should not take exception to forms. He would move, however, to strike out $36,000, and insert $52,000, as the proper sum to be allowed to quiet Mr. Monroe's claim.

This motion was promptly negatived.

The question was then put on the amendment of Mr. HEMPHILL, and determined in the negative—yeas 93, nays 99.

Mr. HEMPHILL then renewed his amendment, reducing the sum to be appropriated to $30,000.

Mr. HAYNES demanded the previous question; but the House refused to sustain the demand.

Mr. ELLSWORTH submitted an amendment; but the Speaker declared it to be out of order, the House having yesterday rejected a similar amendment.

Mr. POTTER submitted the following amendment, to come in after the word "sacrifices:"

"In addition to the sum of four hundred thousand dollars, heretofore paid to said James Monroe, for the same consideration."

Mr. CARSON was very sorry to differ from his colleague; he could have wished the amendment had not been offered; but, if it prevailed, it could do no harm to Mr. Monroe. He then commented upon what fell from the gentleman from New York, (Mr. ANGEL,) yesterday.

Mr. ANGEL explained, and vindicated himself.

Mr. BUCHANAN remarked upon the short time that was left, before the close of the session, to attend to the public business. He hoped the claim would be decided on to-day. Mr. B. said that, before he resumed his seat, he would take this occasion to remark, that, after the present generation had been gathered to their fathers, and when the men of other times came to review the proceedings of this day, it would be a stain upon the character of the nation, if we should suffer the illustrious individual who preferred this claim to go to his grave without its adjustment. Such conduct towards an individual, now in poverty and old age, who had rendered most important services, both in peace

and in war, to his country, would be blazoned to the world by the enemies of our free institutions, as another proof of the ingratitude of republics.

Mr. POLK said he would be the last man to inflict a stain on the country. He entered into an argument to show that the individual referred to had no claim on the nation. He remarked upon the character of the debate—sometimes gentlemen in favor of the bill argued as if there was a claim, at other times they appealed to the feelings of members. Some gentlemen thought there was a claim upon Congress—others viewed the matter in the light of a gratuity. If he believed there was any thing due Mr. Monroe, he would provide for his payment; but he did not believe there was one dollar due him.

Mr. MERCER stated, in reference to the amendment proposed by the gentleman from North Carolina, on his own authority, and as a member of the House, that Mr. Monroe had not received 400,000 dollars from the Government for his services.

Mr. THOMPSON, of Georgia, considered it a solemn duty on his part to oppose the claim, and he should be compelled to vote against it.

Mr. POTTER hoped the gentleman from Virginia would excuse him if he thought that gentleman was not altogether accurate on the subject. He (Mr. P.) had taken some pains to examine into it, and was satisfied that the sum named in his amendment was not far from the truth. He remarked upon what had fallen from the gentleman from Pennsylvania on the score of ingratitude, and expressed his opinion that any man who had filled the Presidential chair, and had been commander-in-chief of the army and navy of the United States, had been fully compensated for all his devotion to the interests of his country.

Mr. WAYNE was of opinion that there was a large sum due to Mr. Monroe, and that it should be paid.

Mr. DORSEY opposed the claim, in a speech of some length; in the course of which he examined the grounds upon which the claim was founded, and replied to gentlemen who had spoken on the other side.

Mr. MERCER made an energetic reply, and repelled some of the assertions made by Mr. D.

Mr. DORSEY rejoined with equal warmth.

Mr. POLK replied to some of the remarks of Mr. MERCER.

Mr. MERCER animadverted warmly on what had fallen from the gentleman from Maryland, (Mr. D.) He also replied to the remarks of Mr. POLK.

Mr. POTTER modified his amendment by inserting 354,000 dollars, instead of 400,000.

The question being then put on the amendment of Mr. POTTER, it was negatived, by a large majority.

Mr. RENCHER then submitted the following proviso, to come in at the end of the amendment offered by Mr. HEMPHILL; and stated that, if it was adopted, he should vote for the amendment:

"*Provided*, The accounting officer of the Treasury Department shall, upon an examination of his accounts, believe so much is due him upon principles of equity and justice."

On motion of Mr. ELLSWORTH, the yeas and nays were ordered on the amendment proposed.

Mr. HEMPHILL, to save the time of the House, would accept of the amendment as a modification of his own motion.

Mr. THOMPSON, of Georgia, moved an adjournment; the motion was negatived—87 to 96.

The question recurring on the amendment of Mr. HEMPHILL, as modified,

Mr. HOFFMAN moved the previous question; the effect of which would have been to take the question on engrossing the original bill. The House refused to sustain the demand.

Mr. WILLIAMS then demanded the yeas and nays on the amendment, and they were ordered.

Mr. HAYNES moved that the House do now adjourn; which motion was negatived—yeas 81, nays 102.

The question was then put on the amendment of Mr. HEMPHILL, as modified, and decided in the affirmative—yeas 106, nays 83.

The question then recurred on the engrossment of the bill, as amended, for a third reading, and the yeas and nays were ordered on the question.

THURSDAY, February 3.

Duty on Salt.

Mr. MALLARY, from the Committee on Manufactures, reported the following bill:

"*Be it enacted, &c.*, That so much of an act entitled 'An act to reduce the duty on salt,' approved May 29, 1830, as will take effect on and after the 31st of December next, be, and the same is hereby, repealed; and that the duty on salt imported into the United States be and remain at fifteen cents per bushel."

A very long report accompanied the bill.

The bill having been read the first time, Mr. LAMAR moved its rejection.

Mr. TUCKER objected to the second reading of the bill, and hoped it would be rejected. He regretted that it had been introduced. The tax on salt was complained of, and justly complained of, by the greater part of the American people; it was a tax that operated with great severity on the poor. The tax was laid for war purposes, and should not be continued in a state of peace. An act to repeal the tax passed at the last session, after full discussion, and it was but just that the repeal should take place. We have a bill on the tables of the House, relative to a reduction of the duties on sugar; was this bill intended to have any effect upon that measure? Mr. T. hoped that every gentleman on the floor, who desired the prosperity of his country, would promptly vote for the rejection of the bill reported from the Com-

mittee on Manufactures. Mr. T. defended the vote he gave the other day against the rejection of a bill; he did it with a view to allow an opportunity for discussion.

Mr. MALLARY said, there was nothing unusual in reporting the bill now before the House. The Committee on Manufactures had considered the subject; it was an interesting one; and they had very fully given their views upon it in the report which accompanied the bill. If the gentleman who had just taken his seat, felt irritated at the course pursued by the committee, he could not help it; he claimed the right to present his views to the House, and so did the committee. He was not disposed to go into an argument upon the subject at this time; he should prefer that the bill should lie on the table, and the report be printed, so that gentlemen might have time to reflect upon and understand the question for themselves. He was desirous that the bill should take the usual course—be read a second time and committed. He assured the gentleman from South Carolina that he had no idea that this measure should have any effect on the sugar bill; nor would the effect of its passage be to operate upon the poor—it was rather intended to relieve the poor. The gentleman had said that the object of his vote the other day was to admit of discussion—his object now was to prevent it, by strangling the bill. If the House chose to reject the bill, he had nothing to say against it, but, before doing so, he should be pleased to have the views of the Committee on Manufactures read.

Mr. SPEIGHT said he had been unprepared for the introduction of a measure of the nature of that now before the House. There had been a full discussion on the subject at the last session, and the House, by a considerable majority, had passed a bill to repeal the tax on salt, now proposed to be continued. In the debate on that occasion, it was declared to be one of the most grievous and oppressive taxes to which any people were subjected. Neither the poor nor the rich, said Mr. P., should be burthened with a tax on an article that entered into the necessary consumption of every family. Pass this bill, and what would gentlemen have to tell their constituents when they went home, this measure following directly upon the act of the last session?

Mr. S. then spoke of the effects which the measure would have upon the people of the South, and said he warned gentlemen to be cautious in their repeated attempts to keep them down. He denounced the vengeance of the South on the majority of this House, if they persisted in a course of measures like those pursued for some years past. Last year, he said, the lords proprietaries of the United States had been petitioned to reduce the duties on salt, and their prayer was granted. Now it was proposed to restore the duties. Would not such legislation create excitement? Yes, said Mr. S., such a system of robbery and plunder will create excitement. Was the South to have no redress of grievances? And when she had thrown herself on the liberality of her sovereigns, and obtained some partial relief, was she to be again subjected to the same burthens? The day was coming when the South would be heard. The oppressive measures under which she labored must be repealed—it will be done—and shall be done. The South was on the eve of a rebellion. Yes, sir, the day is fast approaching, when the people of the South will rise in their majesty, and stalk the avenues of this House, and take vengeance on their oppressors. Yes, sir, and I fear this Government, under which they claim the right to tax us, will be made "to reel to and fro like a drunken man." Sir, I am done.

Mr. THOMPSON, of Georgia, rose to address the House; but gave way to

M. TUCKER, who said that, when the bill should receive its second reading, he should move an amendment to provide for the repeal of the duties on salt *in toto*. He felt sorry that the gentleman from North Carolina had expressed himself as he had done. It was his (Mr. T.'s) wish to put down excitement. Every section of this country was oppressed by this odious tax, except the persons engaged in the manufacture of the article. There was an aristocracy in this House—they had power, and they exercised it to oppress. They were led into error themselves, and they deluded the people. The yeomanry of the country never had been represented on this floor. The object of the tax on salt was to take from the pockets of the poor, and give to the rich; to make the poor poorer, and the rich richer. He implored gentlemen, for the good of their constituents, for the good of the country, to take such steps as would put an end to excitement, by endeavoring to do justice to all. For himself, he cared no more for one section of the country than for another; his object was to do justice to all. The people were oppressed, and, in a measure, slaves; the Union was in danger of being rent asunder, and he feared the day was not far distant. Heaven avert it! Should this be the result, however, of the measures of the majority, they would not only have to answer before the people, but before their God. He was determined that no act of his should bring about such a state of things. Referring to the remarks of Mr. MALLARY, he said it was to him matter of astonishment, how a high duty on any article could make the article cheaper; as well might it be said that a coal black piece of paper was as white as snow. It was a contradiction in terms, &c.

Mr. THOMPSON, of Georgia, next rose, not, he said, for the purpose of discussing the merits of the proposition reported by the Committee on Manufactures, but to beg of gentlemen who are in favor of what is called a protecting tariff, to pause before they proceed too far with it. We of the South, said Mr. T., have been somewhat amused by the prospect of relief from the burdens heaped upon us by the majority in Congress by a repeal or reduction of the duties, and

the excitement on that account has always been repressed by the hope of it. But when we get up and tell the House that we are oppressed, and that we must have relief from this oppression, and see how our remonstrances are met by those who are trying to oppress us still further, do gentlemen suppose that we can submit to this? What is the object of gentlemen? Is it their intention to goad us on to extremities? Recurring to the history of the last session, Mr. T. said that it was then solemnly decided, after debate, that the duty on salt was oppressive to the great body of the people, and a law was therefore passed to reduce it. And what, he asked, was now proposed? After this discussion, and the conclusive expression of the opinion of the House that the duty was too high, and ought to be reduced, for what purpose could it now be proposed to reinstate that duty? The Chairman of the Committee on Manufactures (for whom Mr. T. said he felt great respect) had said that he had no objection that the bill should lie on the table, that members might have time to reflect upon the subject. In the best feelings of his heart towards the House and towards that gentleman, Mr. T. begged of those who favored this project to pause. For, he repeated—and he hoped that he should not be considered as making a vain boast or threat when he said it—that the people could not submit to this manner of legislation. If it be persisted in, said he, we shall be driven to the necessity of resistance. In discussions on this subject, when I have stated the effect of the existing duties upon the people of the South, I have been told by the friends of the protective system that I did not understand the subject; that the experience of five or six years would convince me that our Eastern brethren were our best friends. I am sure, sir, that no gentleman in this House has ever resorted to this argument to blind me whilst he was robbing my pockets; but, sir, I do feel that I am insulted when an effort is made to take from my pocket my hard earnings, for no necessity of the Government, and for no public benefit. Again I beg gentlemen, I appeal to them as individuals and as representatives of the American people, to pause before they go further. I repeat, that in the South we have looked to a deliverance from the oppression under which we labor, and we have considered the reduction of the duties on salt and some other articles as pledges that we shall not be disappointed. A confident belief that the duties would be repealed, has induced the people of the South, a large majority of them, so far to submit to their oppressive operation. Pass this bill, and I apprehend they will no longer forbear resisting. Mr. T. concluded, by saying that, if the friends of this bill persisted in bringing it before the House, he should move to amend it so as to propose a total repeal of the duty on salt.

Mr. LAMAR then withdrew his motion to reject the bill.

Mr. CHILTON renewed it. He said that, believing, with great deference to the committee, that this bill, if passed, would further oppress the people, not only of the South, but of every other portion of the country—and apprehensive that it would lead to an unnecessary and irritating debate, and, it might be, to a decision of the question by wager of battle, (judging by the excitement of debate yesterday,) to get rid of these discussions, he felt it to be his duty to move the previous question.

A call of the House was then moved by Mr. WILDE, and ordered. One hundred and ninety-three members answered to their names.

On motion of Mr. VANCE, further proceedings in the call were dispensed with.

Mr. MCCREERY asked if a motion to lay the bill on the table would now be in order.

The Speaker replied in the negative.

The question was then put on the demand of Mr. CHILTON for the previous question; but the House refused to sustain it.

Mr. MCCREERY stated that he was one of those who had opposed the reduction of the duty on salt; but he saw no use in agitating the question of restoring the duty at this time. He would, therefore, move to lay the bill on the table. (The motion, however, was declared not to be in order under the pending question.)

[Here the hour allotted for morning business expired.]

James Monroe.

The bill for the relief of James Monroe, as yesterday amended, again coming up, and the question being on ordering the bill to be engrossed for a third reading,

The question was put on ordering the bill to be engrossed for a third reading, and decided in the affirmative as follows—yeas 105, nays 92.

The bill was then ordered to be read a third time to-day.

FRIDAY, February 4.

James Monroe.

The bill for the relief of James Monroe was read the third time; and the question being, "Shall it pass?"

Mr. CHILTON called for the yeas and nays on the question, and they were ordered by the House. Being taken, they stood—yeas 104, nays 88.

So the bill was passed.

On motion of Mr. MARTIN, the title of the bill was amended to read as follows: "A bill to provide for the final settlement and adjustment of the various claims preferred by James Monroe against the United States."

The bill from the Senate for the relief of William Smith, administrator of John Taylor, deceased, was read the third time, and passed.

Mrs. Susan Decatur.

Mr. MCDUFFIE submitted a motion that the House do now take up the bill to compensate

Susan Decatur, widow and legal representative of Captain Stephen Decatur, deceased, et al.

Mr. WILLIAMS called for the yeas and nays on the question of consideration. They were ordered by the House, and, being taken, stood —yeas 85, nays 100.

SATURDAY, February 5.

Judge Peck's Trial.

Mr. MAXWELL, of New York, from the Committee on Accounts, made a report on the memorial of the witnesses in the case of Judge Peck, attending here during the last session, accompanied by the following resolution:

"*Resolved*, That the Clerk of this House be authorized to pay to the witnesses who attended before the Committee on the Judiciary in the case of Judge Peck, at the last session, the same compensation for their attendance and mileage, respectively, as has been allowed to the witnesses who have attended the trial of the impeachment at the present session, deducting therefrom the amount allowed to them at the last session."

The resolution was agreed to.

The Salt Duty.

The House resumed the consideration of the bill to restore the duty on imported salt—the question being on the rejection of the bill—

Mr. SUTHERLAND said that one or two of his colleagues had, in the course of the debate upon this bill, moved that the bill be laid upon the table; and having observed that the Speaker refused the motion, declaring it to be out of order, pending an objection to the second reading, he took leave to say that he respectfully apprehended that, from the recorded decisions of the House, the motion ought to be entertained by the Chair. He, therefore, with a view of meeting this question of order, moved that the bill do lie on the table.

The SPEAKER pronounced this motion not to be in order;

Mr. SUTHERLAND appealed from this decision. In support of his course, Mr. S. observed, that he meant no disrespect to the Chair, but that he was desirous of knowing whether the decisions made upon motions last year, which were parallel with the present motion, were to be overruled by the Chair. If they were to be set aside, he was anxious that the House should have notice of the fact, and, at the opening of the next session of Congress, we might have the point stated at the back of the journals, where all matters of order are recorded. For if the subject was not disturbed in the way he suggested, and some opinion obtained from the Chair, the practice of the first session of this Congress would appear from the journals to contradict that of the second session. Mr. S. then proceeded to show that it had been decided by the Speaker, during the last year, that the motion to lie on the table took precedence of the question "Shall the bill be rejected?" and cited two or three parallel cases from the journals of the last session, which he read and commented on to show their similarity to the present case. When Mr. S. had concluded,

The SPEAKER, after admitting that the present decision of the Chair was at variance with the decisions of the last session, which had been cited, proceeded to explain to the House his reasons for the change. It was, he said, after mature reflection on the former practice, and after much consultation with those better qualified than himself to form a correct judgment on the question, that he had come to the conclusion that the former decisions were erroneous; and, being so convinced, his duty to the high and responsible trust reposed in him by the House, did not permit any fear of apparent inconsistency to prevent his following the dictates of his better judgment. The honorable Speaker then went into an examination and exposition of the rules of order and the nature of the questions before the House, to show why the former practice was erroneous, and the present decision compatible with the spirit of the rules, with their true application to the question, and with the reason of the case.

Mr. SUTHERLAND observed, a greater man than either of us on parliamentary practice, [meaning, it is presumed, Mr. Hatsell,] has said, "it is much more material that there should be a rule to go by, than what that rule is;" and I think upon that ground alone the old practice might well be sustained. As to the reasons addressed to the House by the Speaker, with all due deference to the Chair, Mr. S. thought he could readily answer them; but as Mr. Speaker had thought proper to change his opinion on the subject, he felt no disposition to urge the appeal any further, and therefore withdrew it.

Mr. THOMPSON said, that, in accordance with the wishes of several of his friends, he would withdraw his objection, and let the bill proceed to a second reading.

The bill was accordingly read the second time.

Mr. WILLIAMS then moved that the bill do lie on the table, and the motion was decided in the affirmative—yeas 145, nays 41.

Books for the use of Members.

Mr. JOHNSON, of Kentucky, submitted the following resolution:

Resolved, That the Clerk of the House of Representatives be directed to procure two hundred and sixteen copies of the debates of the State conventions on the adoption of the federal constitution in 1787, one copy of which to be delivered to each member; and that the Clerk be directed, also, to have preserved for each member an extra copy of the reports of Congress, at each session, and to have the same bound in a strong, cheap, ordinary binding, to embrace the present session, and to continue in future.

In support of the resolution, Mr. JOHNSON

the excitement on that account has always been repressed by the hope of it. But when we get up and tell the House that we are oppressed, and that we must have relief from this oppression, and see how our remonstrances are met by those who are trying to oppress us still further, do gentlemen suppose that we can submit to this? What is the object of gentlemen? Is it their intention to goad us on to extremities? Recurring to the history of the last session, Mr. T. said that it was then solemnly decided, after debate, that the duty on salt was oppressive to the great body of the people, and a law was therefore passed to reduce it. And what, he asked, was now proposed? After this discussion, and the conclusive expression of the opinion of the House that the duty was too high, and ought to be reduced, for what purpose could it now be proposed to reinstate that duty? The Chairman of the Committee on Manufactures (for whom Mr. T. said he felt great respect) had said that he had no objection that the bill should lie on the table, that members might have time to reflect upon the subject. In the best feelings of his heart towards the House and towards that gentleman, Mr. T. begged of those who favored this project to pause. For, he repeated—and he hoped that he should not be considered as making a vain boast or threat when he said it—that the people could not submit to this manner of legislation. If it be persisted in, said he, we shall be driven to the necessity of resistance. In discussions on this subject, when I have stated the effect of the existing duties upon the people of the South, I have been told by the friends of the protective system that I did not understand the subject; that the experience of five or six years would convince me that our Eastern brethren were our best friends. I am sure, sir, that no gentleman in this House has ever resorted to this argument to blind me whilst he was robbing my pockets; but, sir, I do feel that I am insulted when an effort is made to take from my pocket my hard earnings, for no necessity of the Government, and for no public benefit. Again I beg gentlemen, I appeal to them as individuals and as representatives of the American people, to pause before they go further. I repeat, that in the South we have looked to a deliverance from the oppression under which we labor, and we have considered the reduction of the duties on salt and some other articles as pledges that we shall not be disappointed. A confident belief that the duties would be repealed, has induced the people of the South, a large majority of them, so far to submit to their oppressive operation. Pass this bill, and I apprehend they will no longer forbear resisting. Mr. T. concluded, by saying that, if the friends of this bill persisted in bringing it before the House, he should move to amend it so as to propose a total repeal of the duty on salt.

Mr. LAMAR then withdrew his motion to reject the bill.

Mr. CHILTON renewed it. He said that, believing, with great deference to the committee, that this bill, if passed, would further oppress the people, not only of the South, but of every other portion of the country—and apprehensive that it would lead to an unnecessary and irritating debate, and, it might be, to a decision of the question by wager of battle, (judging by the excitement of debate yesterday,) to get rid of these discussions, he felt it to be his duty to move the previous question.

A call of the House was then moved by Mr. WILDE, and ordered. One hundred and ninety-three members answered to their names.

On motion of Mr. VANCE, further proceedings in the call were dispensed with.

Mr. MCCREERY asked if a motion to lay the bill on the table would now be in order.

The Speaker replied in the negative.

The question was then put on the demand of Mr. CHILTON for the previous question; but the House refused to sustain it.

Mr. MCCREERY stated that he was one of those who had opposed the reduction of the duty on salt; but he saw no use in agitating the question of restoring the duty at this time. He would, therefore, move to lay the bill on the table. (The motion, however, was declared not to be in order under the pending question.)

[Here the hour allotted for morning business expired.]

James Monroe.

The bill for the relief of James Monroe, as yesterday amended, again coming up, and the question being on ordering the bill to be engrossed for a third reading,

The question was put on ordering the bill to be engrossed for a third reading, and decided in the affirmative as follows—yeas 105, nays 92.

The bill was then ordered to be read a third time to-day.

FRIDAY, February 4.

James Monroe.

The bill for the relief of James Monroe was read the third time; and the question being, "Shall it pass?"

Mr. CHILTON called for the yeas and nays on the question, and they were ordered by the House. Being taken, they stood—yeas 104, nays 88.

So the bill was passed.

On motion of Mr. MARTIN, the title of the bill was amended to read as follows: "A bill to provide for the final settlement and adjustment of the various claims preferred by James Monroe against the United States."

The bill from the Senate for the relief of William Smith, administrator of John Taylor, deceased, was read the third time, and passed.

Mrs. Susan Decatur.

Mr. MCDUFFIE submitted a motion that the House do now take up the bill to compensate

Susan Decatur, widow and legal representative of Captain Stephen Decatur, deceased, et al.

Mr. WILLIAMS called for the yeas and nays on the question of consideration. They were ordered by the House, and, being taken, stood —yeas 85, nays 100.

SATURDAY, February 5.

Judge Peck's Trial.

Mr. MAXWELL, of New York, from the Committee on Accounts, made a report on the memorial of the witnesses in the case of Judge Peck, attending here during the last session, accompanied by the following resolution:

"*Resolved*, That the Clerk of this House be authorized to pay to the witnesses who attended before the Committee on the Judiciary in the case of Judge Peck, at the last session, the same compensation for their attendance and mileage, respectively, as has been allowed to the witnesses who have attended the trial of the impeachment at the present session, deducting therefrom the amount allowed to them at the last session."

The resolution was agreed to.

The Salt Duty.

The House resumed the consideration of the bill to restore the duty on imported salt—the question being on the rejection of the bill—

Mr. SUTHERLAND said that one or two of his colleagues had, in the course of the debate upon this bill, moved that the bill be laid upon the table; and having observed that the Speaker refused the motion, declaring it to be out of order, pending an objection to the second reading, he took leave to say that he respectfully apprehended that, from the recorded decisions of the House, the motion ought to be entertained by the Chair. He, therefore, with a view of meeting this question of order, moved that the bill do lie on the table.

The SPEAKER pronounced this motion not to be in order;

Mr. SUTHERLAND appealed from this decision. In support of his course, Mr. S. observed, that he meant no disrespect to the Chair, but that he was desirous of knowing whether the decisions made upon motions last year, which were parallel with the present motion, were to be overruled by the Chair. If they were to be set aside, he was anxious that the House should have notice of the fact, and, at the opening of the next session of Congress, we might have the point stated at the back of the journals, where all matters of order are recorded. For if the subject was not disturbed in the way he suggested, and some opinion obtained from the Chair, the practice of the first session of this Congress would appear from the journals to contradict that of the second session. Mr. S. then proceeded to show that it had been decided by the Speaker, during the last year, that the motion to lie on the table took precedence of the question "Shall the bill be rejected?" and cited two or three parallel cases from the journals of the last session, which he read and commented on to show their similarity to the present case. When Mr. S. had concluded,

The SPEAKER, after admitting that the present decision of the Chair was at variance with the decisions of the last session, which had been cited, proceeded to explain to the House his reasons for the change. It was, he said, after mature reflection on the former practice, and after much consultation with those better qualified than himself to form a correct judgment on the question, that he had come to the conclusion that the former decisions were erroneous; and, being so convinced, his duty to the high and responsible trust reposed in him by the House, did not permit any fear of apparent inconsistency to prevent his following the dictates of his better judgment. The honorable Speaker then went into an examination and exposition of the rules of order and the nature of the questions before the House, to show why the former practice was erroneous, and the present decision compatible with the spirit of the rules, with their true application to the question, and with the reason of the case.

Mr. SUTHERLAND observed, a greater man than either of us on parliamentary practice, [meaning, it is presumed, Mr. Hatsell,] has said, "it is much more material that there should be a rule to go by, than what that rule is;" and I think upon that ground alone the old practice might well be sustained. As to the reasons addressed to the House by the Speaker, with all due deference to the Chair, Mr. S. thought he could readily answer them; but as Mr. Speaker had thought proper to change his opinion on the subject, he felt no disposition to urge the appeal any further, and therefore withdrew it.

Mr. THOMPSON said, that, in accordance with the wishes of several of his friends, he would withdraw his objection, and let the bill proceed to a second reading.

The bill was accordingly read the second time.

Mr. WILLIAMS then moved that the bill do lie on the table, and the motion was decided in the affirmative—yeas 145, nays 41.

Books for the use of Members.

Mr. JOHNSON, of Kentucky, submitted the following resolution:

Resolved, That the Clerk of the House of Representatives be directed to procure two hundred and sixteen copies of the debates of the State conventions on the adoption of the federal constitution in 1787, one copy of which to be delivered to each member; and that the Clerk be directed, also, to have preserved for each member an extra copy of the reports of Congress, at each session, and to have the same bound in a strong, cheap, ordinary binding, to embrace the present session, and to continue in future.

In support of the resolution, Mr. JOHNSON

said that, when he had the honor of a seat in the other House, he had been provided with the reports of this House, and that they were of value to him. He had an opportunity to read them in the recess, and they therefore became of equal value to his constituents. They would be found of vast importance to members generally.

With regard to the other portion of his resolution, it provided for the purchase of a work of great importance to members, in the discharge of their public duties. The other House had passed a resolution, by which each member of it had been furnished with a copy of that valuable work, and he hoped that the members of this House would also be put in possession of it.

Mr. CHILTON would not consume the time of the House, in debating the resolution; but would content himself with calling for the yeas and nays on its adoption.

Mr. INGERSOLL asked for a division of the question.

Mr. CAMBRELENG said the resolution was one of an obnoxious character. If the House was disposed to sanction the measure at all, it should be done by law. Resolutions of a similar character had, at the present session, been referred to the Committee on the Library, and he hoped this would take the same direction.

Mr. JOHNSON said a law was not necessary in this case—it had not been the custom or practice heretofore, and he saw no necessity for it now. The Senate had enjoyed the benefit of the work, and it was procured without the formality of a joint resolution.

After a few words from Mr. WICKLIFFE, in opposition to the resolution, it was referred to the Library Committee—yeas 75, nays 62.

Salt Reserves in Illinois.

The bill for the sale of lands in the State of Illinois, reserved for the use of salt springs, on the Vermillion River, in that State, was read the third time, and the question put on its passage.

Mr. DRAYTON opposed the passage of the bill.

Mr. IRVIN, of Ohio, supported it.

Mr. DUNCAN replied to the arguments urged by Mr. DRAYTON against the right of the State to these lands; and advocated the passage of the bill, as a measure calculated to promote the interest of the United States, as much as that of the State. He said the reservation was all timbered land, and the land in the vicinity was prairie; that the sale of the timber was necessary for the improvement of the country, and would cause the sale of a much larger quantity of prairie, which was public land. He believed the land was not necessary to support the salt works; the sale of them had been asked for by the Legislature, and he knew it was a measure greatly desired by the citizens of that part of the State.

Mr. WICKLIFFE said the bill had undergone a thorough examination by the Committee on Public Lands, and that committee was unanimous in the opinion that the bill should pass.

After some further conversation between Messrs. DRAYTON, IRVIN, of Ohio, WICKLIFFE, DUNCAN, and PETTIS, the question was put on the passage of the bill, and decided in the affirmative.

The bill for the relief of Joseph H. Webb, coming up on its passage, it was opposed by Messrs. WILLIAMS, BATES, DRAYTON, and CRAIG, and was supported by Messrs. JOHNSON, of Kentucky, WHITTLESEY, DUNCAN, and CONNER.

[The bill provided for an increase of the pension of the petitioner, on account of increasing disability from a wound he received from an Indian, while carrying the mail through the Indian country. It was opposed, on the ground that Congress had no right to pension other than those who were wounded in the military or naval service. Mr. CONNER, to show that Congress had passed a bill allowing a pension in a similar case, read the law, which granted a pension to the widow and representatives of John Heap, who was killed by mail robbers, while in the act of carrying the mail.]

The question being put on the passage of the bill, it was rejected by a vote of 50 to 72.

MONDAY, February 7.

Indian Affairs.

Mr. EVERETT, of Massachusetts, presented a memorial of inhabitants of the town of Southampton, in the county of Hampshire, and State of Massachusetts, praying that the act of the last session of Congress, providing for an exchange of lands with certain Indian tribes, and for their removal and permanent settlement west of the Mississippi, may be repealed; that treaties made with the Indians, heretofore, may be inviolably observed; and that the said Indians may be protected in the enjoyment of their lands, and in all the rights secured to them by engagements entered into between the said Indians and the United States. Mr. E. observed, that he had long felt it to be the duty of the House to consider the all-important subject of this memorial. He should, himself, by way of resolution, have called the attention of the House to the subject, had no other member expressed an intention of doing so, if it had been possible, under the rules of the House, to move a resolution. But it was known to the Chair, that, for several weeks past, there had not been a moment when it was in order to move a resolution. A petition from a very respectable community in the State which he had the honor, in part, to represent, had been placed in his hands. By the rules of the House, a petition cannot be debated on the day on which it is presented, but must lie on the table one day. As petitions are received only one day of the week, on Mondays, Mr. E. observed that

the memorial which he presented must, under these rules, lie on the table till that day, and then come up as the unfinished business of petitions. He begged leave, therefore, in presenting this petition, to give notice, that, when it should come up on Monday next, he should feel it his duty to ask the attention of the House to the very important question of protecting the Indian tribes in the possessions and rights secured to them by treaty and the laws of the United States.

Colonization Society.

Mr. BOULDIN, of Virginia, presented the petition of a number of his constituents, praying aid from Congress for the Colonization Society, to which he intimated his own disagreement, but moved that it be printed; which was ordered.

The Salt Report.

Mr. MALLARY moved that the report of the Committee on Manufactures, on the restoration of the duty on imported salt, be printed for the use of the House.

Mr. CHILTON was opposed to the motion. The bill was done with for this session, by the consent of both its friends and enemies, and he was in favor of letting the report sleep with the bill. The report contained an ex parte argument on the subject, which Mr. C. did not wish to send among the people with even this indirect sanction of the House. The country was now in a state of excitement, and every member ought to be willing to allay that excitement, instead of sending forth what would tend to increase it. However untenable the argument of the report—an argument so fallacious that any schoolboy could answer it—the order to print an extra number would give to it some degree of importance. The report was presumed to be the production of an individual of the Committee on Manufactures; and if the practice were to prevail, it would become an easy matter for any member of the House to have his opinions sent forth with this sanction, however obnoxious they might be to the sense of the House. If gentlemen desired to distribute copies of the report, let them do it at their own expense, not at that of the House.

Mr. WILLIAMS moved to lay the motion for printing on the table.

Mr. MALLARY requested that Mr. W. would withdraw the motion, to give him an opportunity of replying to Mr. CHILTON's remarks, but Mr. W. declined yielding to the request.

The question was then put on laying this motion on the table, and was decided, by yeas and nays, in the negative—yeas 82, nays 100.

The report was then ordered to be printed.

The Judiciary Reports.

The House having taken up the resolution submitted some days ago, by Mr. WHITE, of New York, to print three thousand additional copies of the report of the Committee on the Judiciary in favor of repealing the 25th section of the judiciary act of 1789, together with the counter report of the minority of the committee—

Mr. BUCHANAN said it might be supposed he felt some interest in the success of this motion, but really he felt none. The question on the repeal of the 25th section had been settled by the House—settled to Mr. B.'s entire satisfaction. This decision had gone forth to the people, and he saw no good purpose it could answer to send the two arguments of the committee lagging after it through the country. He was therefore opposed to printing any additional copies.

Mr. HAYNES, of Georgia, was in favor of printing the extra copies. The report of the committee contained a fair exposition of the unconstitutionality of the 25th section; and as there had been no opportunity for a discussion of the subject in the House, he wished the argument of the committee to be extensively disseminated. No man, Mr. H. said, was more attached to the Union of the States than himself; but he did not consider the proposition to repeal the section as any attack on the Union; on the contrary, being satisfied that the section was itself unconstitutional, he was in favor of its repeal, and wished the argument of the committee printed for the information of the people.

Mr. CHILTON moved that the motion be laid on the table; but withdrew his motion at the request of several gentlemen.

Mr. DODDRIDGE, of Virginia, remarked, that much had been said, and many allusions had been made to an expression of his on a former occasion, that he considered the proposition to repeal the 25th section of the judiciary act as equivalent to a motion to dissolve the Union. Such, said Mr. D., is my opinion. It is my opinion, and I hope no angry feelings will be produced by my avowing it. Although I entertain this opinion, I was willing to discuss the bill, and it was no fault of mine that it was not discussed. I did not make the motion to lay the bill on the table, which precluded debate. Mr. D. said he had been spoken to by several gentlemen to support the printing of an additional number of the report, &c.; and although the report and counter report had been very generally published in the newspapers, he was willing to order the extra number; indeed, a larger number than that proposed. The reports were important; and, in the pamphlet form, gentlemen to whom they were sent, would be more likely to preserve them for their own, and the perusal of others. He, therefore, moved to amend the motion, so as to print six thousand instead of three thousand additional copies.

Mr. GORDON, of Virginia, said, the remark of his colleague, as to the character of the bill, he must consider as a direct reflection on the committee which reported it. And, as one of those who concurred in the report, he must protest

against that reflection. When a committee of the House had given to a subject the calmest and maturest investigation, and a motion is made to print their report, a gentleman gets up, and, in a tone of alarm, denounces the proposition as tantamount to a motion to repeal the Union; and this, too, from a gentleman whose legal character, and whose standing in the House, gave his opinions some control over the opinions of others. To an opinion so erroneous, and a course so extraordinary, Mr. G. could not submit in silence. In regard to the Union of these States, Mr. G. said he viewed it as the palladium of our hopes, and of the liberties of mankind; and he felt as strong an attachment to it as his colleague could possibly feel, although he might say less than him about it. As to the constitutionality of the 25th section of the judiciary act, has it not, Mr. G. asked, been mooted frequently. It was neither a new question, nor an alarming one. Could it be new, especially to a Virginia lawyer? Does the gentleman not know that the Virginia judiciary, with Roane at its head, had solemnly denied the constitutionality of that section? Did he not also know that many of the leading men of the State, including John Taylor, of Caroline, had contended that the section was unconstitutional? Did not Georgia, the other day, by her Legislature, deny the constitutionality of the act, and order her Executive, with all her powers, to repel its enforcement on her? Had not Pennsylvania, too, declared it unconstitutional, and resisted its execution? Why, then, this tone of alarm and terror? Why the call for the previous question, to suppress debate on the bill? Why shun its discussion? Mr. G. did not himself desire to debate it. He might not even have deemed this a proper time for disturbing the question; but he saw nothing in the proposition to be alarmed at. On the contrary, I declare to God, exclaimed Mr. G., I believe nothing would tend so much to compose the present agitation of the country, and allay the prevailing excitement, as the repeal of that portion of the judiciary act. Mr. G. alluded to the case of Cohens, by which the State of Virginia was made a party before the Supreme Court, and had employed distinguished counsel to argue the unconstitutionality of the authority claimed by the court; and was proceeding to make some further remarks, but checked himself, as he did not wish, he said, to go into the merits of the question.

Mr. DODDRIDGE observed that his colleague's remarks about the previous question, and about the suppression of debate on the bill, did not apply to him. He had not moved the previous question, or made any other motion which would preclude debate; and, as for what his colleague thought of his opinions, he did not care a tittle—not a tittle. Mr. D. said he had not been averse to debating the bill; but, as it was not debated, he was in favor of giving the greatest possible publicity to the arguments, *pro* and *con*, of the committee, and had, therefore, moved to increase the number of additional copies to six thousand.

Here the expiration of the hour put an end to the subject for this day.

WEDNESDAY, February 9.

Defaulters.

Mr. WICKLIFFE laid on the table the following resolution:

Resolved, That the President of the United States be requested to communicate to this House the amount of each defalcation, and the names of the defaulters; the names and amount of each peculation upon the Treasury, or fraudulent use of the public money by individuals in the employment of the Government; and the names of the person or persons concerned therein; the instances in which the public money has been misapplied or diverted from the objects for which it was appropriated by Congress; and, also, the amount of improper allowances to officers, agents, or others, in the public employment, made by any of the departments of the Government; the amounts thereof, and to whom allowed, since the 3d day of March, 1825.

THURSDAY, February 10.

Internal Improvements.

Mr. HEMPHILL, from the Committee on Internal Improvements, to which was referred so much of the Message of the President of the United States at the commencement of the present session as relates to that subject, made a report thereon, and moved that it be committed and printed.

The report embraced a full reply to the opinions announced in the Executive Message on the subject of internal improvement, and concluded with the following resolution:

Resolved, That it is expedient that the General Government should continue to prosecute internal improvements, by direct appropriations of money, or by subscriptions for stock in companies incorporated in the respective States.

Mr. HAYNES called for the reading of the report. The Clerk having progressed at some length,

Mr. CHILTON moved to suspend the further reading, and that the report lie on the table, and be printed.

After a few remarks between Messrs. WICKLIFFE, CHILTON, and the CHAIR, as to a point of order,

The Clerk resumed the reading of the report; when,

Mr. MCDUFFIE moved to suspend the further reading.

[Here arose a discussion between Mr. MCDUFFIE, the CHAIR, and Messrs. MERCER, SUTHERLAND, and WICKLIFFE, as to the correctness of the motion of Mr. MCDUFFIE. It was insisted, on the one side, that when a motion or resolu-

tion was being read the first time, it was not in order for a member to move to suspend the reading. On the other hand, it was asserted that, by a rule of the House, "when the reading of a paper" was "called for, and the same objected to by any member, it should be determined by a vote of the House." Former decisions in the case were also referred to; and the decision of the Chair, that the motion was not in order, was appealed from. Mr. MARTIN was temporarily in the chair to-day. To save time, Mr. HAYNES withdrew his motion for the reading.]

The report was then ordered to be committed, and the usual number of copies directed to be printed.

Mr. VANCE moved for the printing of six thousand additional copies; which motion, by a rule of the House, was laid over till the next day.

Baltimore and Washington Railroad.

This being the day set apart for District business, Mr. DODDRIDGE moved that the House take up the bill to authorize the extension, construction, and use of a lateral branch of the Baltimore and Ohio Railroad, into and within the District of Columbia.

Mr. DORSEY stated that a portion of the delegation of Maryland was placed in an embarrassing predicament on this bill. They did not wish to do any thing which might endanger the bill; but the Legislature of Maryland had now before it a proposition to construct a railroad from Baltimore to Washington, by the State funds; and it would seem respectful for the members from Maryland to wait the action of the State Legislature on the subject. A portion of the delegation had therefore conferred together, and agreed to move a postponement of the bill for a few days.

Mr. HOWARD opposed the motion very earnestly, and stated the nature of the bill which was now before the Legislature of Maryland, to show the improbability that the proposition would result in the work being undertaken by the State. At his request, Mr. DORSEY, for the present, withdrew his motion; and

The House took up the bill and the amendments reported thereto by the Committee for the District of Columbia.

[Considerable discussion took place on the amendments, in which Messrs. HOWARD, DODDRIDGE, WASHINGTON, SEMMES, BROWN, MERCER, HOFFMAN, and MCDUFFIE, took part.]

The remainder of the sitting was spent on the District bills.

MONDAY, February 14.

Indian Affairs—Question of Order.

The petition laid on the table by Mr. EVERETT, of Massachusetts, last Monday, from sundry citizens of Massachusetts, praying the repeal of the Indian law of last session, &c., was announced by the Chair as now before the House for disposal.

Mr. TUCKER, of South Carolina, demanded that the question of "consideration" be put, and the Speaker announced this to be the question.

[This question precludes debate on any motion, unless the House decides in favor of its consideration.]

Mr. LUMPKIN demanded the yeas and nays on the question of "consideration;" and they were ordered.

Mr. EVERETT said that he considered the demand for the question of consideration out of order; the petition had been received by the House, and, if this motion were entertained by the Chair, it would cut off all debate on the petition, which Mr. E. said he had a right to discuss, on presenting it, if he thought proper.

The SPEAKER said the House had a right to decide whether it would consider the gentleman's motion—it had a right to refuse to receive the petition itself.

Mr. EVERETT. But the House has received the petition.

The SPEAKER said the petition had been received and laid on the table; that the House had a right now to say whether it would consider the gentleman's motion touching its reference, and therefore the demand for the question of consideration was in order.

Mr. BELL asked, if the House decided in favor of "consideration," what time would the discussion be in order?

The SPEAKER replied, it could only be continued to-day, and the next days on which the presentation of petitions would be in order, (namely, on Monday alone.)

Mr. EVERETT said he felt himself under the necessity of appealing from the decision of the Chair, on the correctness of entering the demand for the question of consideration; arguing that this was no motion or proposition offered to the House, but simply a petition from a portion of his constituents, which they, in the exercise of their constitutional right, had presented to the House through him, their representative. He had laid it on the table, under the rule; it came up to-day, as a matter of course; its consideration required no motion, and he had made none; the matter before the House was the petition itself, and to that he had a right to speak; it was a constitutional right to which the rule of consideration could not apply, and could not cut off.

Mr. TUCKER, in a few remarks, defended his call for the question of "consideration," and his motive for making it. His object was to save the time of the House from being wasted in a useless debate.

The SPEAKER, after stating the case, read the rules in point, which he explained at some length, to show the correctness of his decision in entertaining the demand for "consideration." He referred particularly to the fifth

rule, which is as follows: "When any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put, unless it is demanded by some member, or is deemed necessary by the Speaker."

Mr. WAYNE asked if he was to understand that the motion of the gentleman from South Carolina (Mr. TUCKER) was in order before the gentleman from Massachusetts (Mr. EVERETT) had submitted any proposition.

The SPEAKER replied, that he considered there was, virtually, a motion before the House, on taking up the petition for disposal.

Mr. WAYNE thought that did not follow of course. The gentleman from Massachusetts had not submitted any proposition relative to the petition; and, until he did that, the House could not know what his motion would be, or decide whether they would consider it. The House would be voting in the dark. He maintained that the Speaker would be right, had the gentleman made any motion for the disposition of the petition, but at present the demand of "consideration" he thought premature.

Mr. TUCKER then withdrew his call for the question of consideration.

Mr. EVERETT said it was his intention to debate the petition which he had presented to the House; and when the Speaker decided that he could not do so, he denied a right which was sanctioned by the practice of the British Parliament, and was sanctioned by the practice of this House. During the last war, many important questions were debated on the presentation of petitions.

The SPEAKER. There must still be a motion before the House to authorize debate.

Mr. EVERETT. If I am entitled to the floor, [several members were attempting to address the Chair,] I will then submit a motion before I sit down.

The SPEAKER. It is in the power of the Speaker, or of any member, to require that every motion be reduced to writing, and the Speaker requires that the gentleman send his motion to the Chair in writing.

Mr. EVERETT accordingly sent to the Chair the following motion:

That the said memorial be referred to the Committee on Indian Affairs, with instructions to report a bill making further provision for executing the laws of the United States on the subject of intercourse with the Indian tribes; and, also, for the faithful observance of the treaties between the United States and the said tribes.

Mr. WICKLIFFE demanded that the question be put on the "consideration" of the motion. He had no idea of commencing another Indian war at this period of the session.

Mr. CONDICT called for the yeas and nays, and they were ordered; and the Speaker having stated the question,

Mr. EVERETT said, if he understood the Chair that it was in order to preclude debate on his motion by the question of "consideration," he must appeal to the House from the decision of the Chair.

The yeas and nays were ordered on the appeal.

Considerable debate now ensued on the appeal. The appeal was supported by Mr. EVERETT and Mr. BATES, of Massachusetts, and it was opposed, and the decision of the Chair defended, by Mr. WAYNE and Mr. THOMPSON, of Georgia. Finally,

Mr. EVERETT said, yielding to the wishes of several of his friends, he would withdraw the appeal, and meet the question at once.

The question was then put—"Will the House now consider the motion?" and was decided in the affirmative—yeas 101, nays 93.

TUESDAY, February 15.

Relief to Land Purchasers.

The House took up the bill from the Senate, supplementary to the act passed on the 31st March, 1830, for the relief of purchasers of public lands, and for the suppression of fraudulent practices at the public sales of the lands of the United States.

Mr. IRVIN, of Ohio, opposed the bill with much earnestness, and moved to strike out the second section.

Mr. CLAY, of Alabama, said, he hoped he should be indulged by the House in giving some explanation, and in the statement of a few facts, in reference to the bill under consideration. It will be perceived, said he, by all who have attended to the reading of the bill, that its provisions are intended to be supplementary to, and emendatory of, the law passed at the last session for the relief of land purchasers. That law has extended relief imperfectly, and very unequally. To those who bought land at fourteen dollars per acre, and upwards, which had reverted with the one-fourth paid thereon, patents were given, without further payment; whilst those who had purchased lands at less than fourteen dollars, which have since reverted, were required to pay additional sums per acre, varying according to the original price. So in regard to the relinquished land, however valuable it may be, or at whatever prices it may have sold, (and the prices varied from two dollars up to forty, fifty, and even as high as seventy and eighty dollars per acre, merely for agricultural purposes,) yet no higher price than three dollars and fifty cents per acre is required by the law for any class or portion of it, while none is permitted to be taken at less than one dollar fifty-six and a fourth cents. This is a variation of less than two dollars in all the different classes and grades, from the most inferior and unproductive to the most fertile and valuable. It is of the injustice and inequality of the operation of this law, that the memorialists, whose interests are embraced by this bill, complain.

It seems to me that this brief explanation of

the principles of the law passed at the last session, would be a sufficient exhibition of its defects, to satisfy every mind that some amendment is demanded by that justice which regards the interests of all classes with equal favor. But, sir, as the bill has been attacked with such vehemence by the gentleman from Ohio, (Mr. IRVIN,) as he has thought proper to speak of the large amount which it proposes to give away, and has endeavored to impress the House with the idea that an immense interest is involved, and that the measure is one of unusually important character, I feel called upon to go further into the discussion. The advocates of the bill can lose nothing by investigation; for the better it is understood, the more conclusive will appear the justness and reasonableness of the claim urged by this unfortunate class of our fellow-citizens.

Sir, as this bill is intended to carry out the principles of the act of last session, already mentioned, and to equalize its operation, it may not be improper or unprofitable very briefly to review the grounds on which your interposition was asked, and upon which that measure was accorded. You had been memorialized year after year upon this subject, both by the people and the legislatures of the new States. Again: at the last session your attention was called to the various causes which had conspired to produce the unprecedented embarrassment and intolerable distress which prevailed more especially in the Southwest, from which quarter came the petitions for the modifications of the law now proposed. You were reminded of the great inducement to purchase land in that section of the country—the production of cotton, the great staple of the South, to which the soil and climate were believed to be alike adapted; and that at the time of those sales (during the years 1818 and 1819) this staple was more in demand, and commanded a higher price, than at any other period of our history, except in the two or three preceding years. You were called on to take into view the superabundance of the circulating medium in those years, occasioned, in no small degree, by the extraordinary multiplication of banks in every State and territory, particularly in the West, which were then issuing millions of money, in the shape of promises, never to be redeemed; and all this then receivable in your land offices. You were told of the five or six millions of "Mississippi stock," the fruit of compromise with the "Yazoo claimants," as they were familiarly called, issued by your authority and direction, to be received in the land offices of Mississippi and Alabama alone, which added greatly to the already delusive appearance of capital and prosperity in those States. They reiterated their well-founded complaints of the combinations of speculators, who crowded the different places of sale, for the purpose of monopolizing the lands which had been improved, and rendered productive by their toil, and industry, and enterprise; in consequence of which they were reduced to the alternative of giving prices the most extravagant, even for those extravagant times, or submit to be driven still further back into the wilderness, at seasons when ruin and starvation would have been the almost inevitable result to many of their families. After all this, when the currency of the United States had been reduced from about one hundred and ten millions to forty-five millions of dollars; when the Mississippi stock had almost entirely disappeared; when many of the banks had exploded, and the paper of nine-tenths of them was refused in payment, you abandoned the credit system, and sold your land for cash, at a reduction of 37½ per centum.

They turned your attention to another fact, which seems to me, of itself, conclusive of their claim to your equitable consideration—the sudden and unprecedented reduction in the value of their staple, its continued depression, and the consequent proportionate diminution in the value of the capital employed in its production. When the lands in question were sold, and for several previous years, cotton would readily command from twenty-five to thirty cents per pound; for some years past, the average price has not been more than one-fourth. As much land and as much labor are now required to produce a given quantity, say fifty thousand pounds of net cotton, as then; but mark the difference in the sum received by the planter. At the price in 1818, (assuming twenty-eight cents as the average,) that quantity was worth $14,000; at the price of the last four or five years, (assuming seven cents as a fair average,) the same quantity would only be worth $3,500. Bear in mind, too, that the diminution in the amount of incidental expenses has not been in equal proportion; while cotton has gone down three-fourths, they have not been reduced more than one-fourth. Suppose the former amount of those charges to have been $2,000, it would have left the planter's net profit at $12,000; take from the total product now $1,500, being one-fourth less, and it leaves him only $2,000, only one-sixth of the former profit. If the same quantity of land, with the same amount of capital and labor employed in its cultivation, will profit the owner but one-sixth, can it be worth one-fourth the price at which it might before have been reasonably estimated? That it is not, is as clear as demonstration itself; and the truth of the melancholy conclusion would be attested by the judgment of all who have lived in the region alluded to during the last twelve years.

But, besides those facts, which were abundantly established by reference to the history of the country, it was shown by the official report of the Commissioner of the General Land Office, that the purchasers of land in Alabama had paid, for nearly half a million of acres which had reverted, an average price of one dollar and thirty-nine cents per acre, when your sales of about the same quantity, in the

same State, during the three preceding years, had exceeded that average but three-tenths of a cent per acre, and when the average price of near a million and a half of acres, sold during the same three years in Indiana, Illinois, and Missouri, had fallen short of that average about fourteen cents per acre, having brought but one dollar twenty-five cents and six mills per acre.

In view of such facts, they called upon you to relieve them from their distress and embarrassment—to exempt them from the ruinous consequences of contracts, which had been made improvidently, but in good faith. Upon this candid and just exposition of the grounds on which they rested their claims, they asked you to suffer them to retain their homes, which they had improved by much labor and expenditure, at the fair value, as it had been ascertained by that most infallible of all tests—experience. They called on you as their brethren, and the representatives of their brethren in every section of their beloved country, to deal with them on the broad and liberal principles of equity and good conscience. They appealed to your sense of justice and your magnanimity. Thank heaven! their appeal was not wholly in vain; you did accord to them partial relief; many of them, perhaps the larger portion, are satisfied. Those who had purchased the most valuable lands were entirely relieved from the insupportable burden of debt which had been hanging over them for years, and threatening them and their families with bankruptcy and ruin. Those who had purchased inferior lands found in the law some mitigation of their grievances—a suspension of the sales of their homes, which were to have taken place in the ensuing spring and summer, and the harbinger, as they hoped and believed, of more equal and liberal justice at the present session.

The petitioners now complain that the act of last session "does not afford to them either an adequate or proportionate relief." They disclaim all "invidious feelings at the good fortune of the holders of high-priced lands, who are presented with patents on surrendering their certificates and paying the fees of office." Nor do they complain "of the pre-emption rights granted to settlers on the public lands;" but they "view with surprise and regret the fact of their forming an isolated class, apparently excluded from the favor of Government." They think (and it is certainly a reasonable opinion) that "if the object of Congress was to raise a certain amount from land debtors," it was but "just that it should have been drawn in ratable proportions from all;" whilst, in point of fact, "the heaviest contributions have been levied upon the holders of low-priced lands, generally consisting of the poorer classes of society." Such is their language, and such are their views; and they are unquestionably founded in truth. Whoever has examined the enactments of the law complained of, and has understood its operation, will be ready to respond to the truth and accuracy of every ground assumed by the memorialists.

Sir, what do the petitioners ask? Simply that you will extend to them relief proportionate to that which you have extended to their more fortunate and more wealthy brethren and fellow-sufferers. They ask a measure of justice, equal to that which you have meted out to others, who are less needy, and have no better claims, on any fair principle. The basis, the very foundation of their claim is, that it is as fair to presume that reverted or relinquished lands, which originally sold for less than fourteen dollars per acre, brought, or rather exceeded, its proportionate value, as that those lands did which sold for higher prices. And is not this assumption perfectly reasonable and well founded? Is it not a fair conclusion, that land, situated in the same section of country, put up at auction at the same time, in the same market, and in the same community, would sell according to its proportionate value, having reference to the quality of soil, situation, and all other incidents which enhance or diminish it? You must admit it, or agree that your mode of selling the public lands is entirely erroneous; for the auction system is predicated on the assumption that it is the true mode of getting the full and fair value of each tract of land.

Sir, it may not be improper to explain how this inequality was produced. Although the bill, as originally introduced, was less favorable to a large portion of the purchasers who sought relief, yet it was far more equal in its distribution. The influence which the favorable opinion and sanction of the Commissioner of the General Land Office would probably have on the action of the House, induced me to enclose to him a copy of the original bill, and ask him to examine its provisions, and give his views in reply. He did examine it, and approved its provisions in the main; but, in conclusion, remarked, "As those persons who purchased originally at very extravagant prices, say at fifteen dollars per acre, or upwards, may not be disposed to avail themselves of the first provision of the first section, and those of the second section, I would suggest the propriety of inserting a maximum price for those lands." He accordingly returned the copy of the bill, which I had enclosed, with provisoes inserted in the first and second sections, limiting the price of each class to three dollars and fifty cents, as it finally passed. I have the original letter of which I have spoken now on my desk, subject to the examination of any gentleman who may desire it. The Committee on the Public Lands were willing to report the bill as approved by Mr. Graham, while they had refused again and again to report, without amendment, the bill which had passed the Senate, fixing the price to be paid for both classes of land at one dollar and twenty-five cents per acre. Under these circumstances, what course was left to be

pursued by the delegations from the new States? If they could not obtain all they thought required by the situation of their respective constituents, would they have been justified in rejecting that which was offered or could be obtained? I can answer more particularly for my colleagues and myself. All the reverted and relinquished land in Alabama had then already been proclaimed for sale in the months of May and June following. Our constituents were the great sufferers. Indeed, they had suffered more than the citizens of all the other new States together; and, in a sale at auction, they would have been obliged to encounter bands of speculators of every grade, from the capitalist who enters the market and buys on his own money, down to the contemptible hush-money dealer, who often swindles without money. Sir, a system of this character had grown up and been matured among us, and we had witnessed the baneful effects of its operation. No time was to be lost; for only a few days more than two months were to elapse between the time at which the measure was under consideration and the commencement of the sales. With this threatening array of evils before us, my colleagues and myself, on consultation as to the most discreet and prudent course for the interest and safety of our constituents, determined to pass the bill, if possible—not as the most just and equal measure which we could have asked or desired, but as the best that could then be obtained. We could not feel justified in the rejection of relief to one portion, because it could not be equally extended to all; and, if we had done so, we should have merited and received the execrations of all. For one, I should have felt it my duty to have obtained relief for any portion, however few, if nothing better could have been done.

Mr. BAYLOR also supported the bill, and replied to Mr. IRVIN.

Mr. IRVIN rejoined more at large against the bill.

Mr. WICKLIFFE commenced a speech in favor of the bill, and had spoken some time, when he gave way to a motion to adjourn.

WEDNESDAY, February 16.

Revolutionary Soldiers.

The House went into Committee of the Whole on the bill supplementary to the act of 1828, for the relief of certain surviving officers and soldiers of the revolution.

[This bill, as usual on all bills making general provision on the subject of pensions, gave rise to much debate; especially on the often discussed question of including the militia in the relief extended to the regular soldiers. The debate on this question arose on a motion by Mr. TUCKER, of South Carolina, to include the militia volunteers and State troops in the present bill, which was ultimately adopted, almost by general consent. The gentlemen who entered into the discussion (some of them repeatedly) were, Messrs. VERPLANCK, DAVIS, of Mass., WILLIAMS, TUCKER, TAYLOR, CHILTON, CRAIG, BURGES, BATES, RICHARDSON, HUNTINGTON, SPENCER, of New York, MCDUFFIE, A. H. SHEPPERD, STRONG, WILDE, CAMPBELL, ELLSWORTH, SPEIGHT, BARRINGER, POLK, and SWIFT.]

Mr. BURGES supported the proposition, and the subject was further discussed by Mr. WILDE and Mr. BATES, the latter of whom suggested that a *pro rata* compensation should be allowed to all who had served, whether in the line or the militia, either for nine or six months. This he thought necessary to be done, and it was equally necessary that it should be done speedily.

Mr. TAYLOR moved an amendment, providing that the State troops, volunteers, or militia, who should at one or more times have served for two years, or for any period not less than six months, should be included within the benefits of the act.

Mr. ELLSWORTH opposed the amendment; but it was carried without a division.

Mr. SPEIGHT moved an amendment providing that the provisions of the act should only extend to those who are now, and may be hereafter, reduced to the necessity of applying to their country for support.

Mr. BARRINGER hoped his colleague (Mr. SPEIGHT) would not press his amendment. It would continue and increase the odious distinction at present existing in pension cases on the part of the rich and poor, by which the latter were obliged, were compelled to prove themselves to be paupers before they could be entitled to a reward for their services.

Mr. POLK said that he should vote for the amendment. The original pension law of 1818 contained a similar provision, as also did that of 1828.

Mr. TUCKER followed, and maintained that the pensioning of the militia was nothing more than the payment of a debt of gratitude due by the nation to those who had fought for and obtained its independence. He moved that the committee rise, and report the bill; but afterwards withdrew his motion by request.

The subject was further discussed by Messrs. A. H. SHEPPERD, SPEIGHT, BATES, and BURGES.

The question was then taken on Mr. SPEIGHT's amendment; which was negatived by a vote of yeas 34, nays not counted.

On the motion of Mr. HUNTINGTON, a provision was adopted to allow to the widow or children of a deceased pensioner the balance of the semi-annual pension following his decease.

The committee then rose and reported the bill as amended, and the House concurred in the amendments of the committee.

Mr. MCCREERY then submitted the following amendment:

And be it further enacted, That the provisions of the act for the relief of certain officers and soldiers of the revolution, passed the 15th day of May, 1828, shall not hereafter be extended to officers who were

commissioned after the 30th day of December, 1781, unless they were in the service prior to the date of their commissions, and that all such officers who are now receiving pensions, be stricken from the roll from and after the passing of this act.

Mr. McC. said that he would, in a very few words, state his reason for offering to the consideration of the House this amendment to the bill. He said that it was notorious that commissions were granted to many after there was any active service performed, and that many of those who were thus commissioned, had not performed any kind of service prior to the date of their commissions, and, consequently, performed none afterwards. He said that his attention had been called to this subject by a fact, which came to his knowledge some time last session, which was, that a certain presiding judge in Pennsylvania, through the influence of some of his friends, received a commission in the latter part of the year 1782, when he was quite a young man; and, although he never performed any duty, either before or after he was commissioned, is now receiving a pension. If this judge was a poor man, he would not make any objection, but this was not the case. From the best information he was able to collect, he said, this judge was worth more than one hundred thousand dollars, and had an annual salary of sixteen hundred. He said that, in his opinion, it never was the intention of this Government to grant pensions under such circumstances, and suffer thousands of meritorious soldiers to drag out the remainder of their days in poverty and want. He said that he felt but little interest on this subject; but he felt it to be his duty to bring it before the House, and with their decision he would be satisfied.

Mr. DODDRIDGE moved the previous question; which, being sustained, cut off Mr. MCCREERY's motion.

The question being put on ordering the bill to be engrossed, and read a third time, it was carried by the following vote:

YEAS.—Messrs. Anderson, Angel, Arnold, Bailey, Noyes Barber, Barringer, Bartley, Bates, Baylor, Beekman, Boon, Brodhead, Brown, Buchanan, Burges, Butman, Cahoon, Cambreleng, Campbell, Chandler, Childs, Chilton, Clark, Coleman, Condict, Conner, Cowles, Crane, Crawford, Crockett, Creighton, Crowninshield, John Davis, Deberry, Denny, De Witt, Dickinson, Doddridge, Dorsey, Dudley, Duncan, Earll, Ellsworth, Geo. Evans, Joshua Evans, Horace Everett, Findlay, Finch, Ford, Forward, Gaither, Gilmore, Grennell, Halsey, Harvey, Hawkins, Hinds, Holland, Hoffman, Hubbard, Hughes, Hunt, Huntington, Ihrie, William W. Irvin, Jarvis, Johns, Richard M. Johnson, Kendall, Kincaid, Perkins King, Adam King, Leavitt, Lecompte, Leiper, Lyon, Magee, Marr, Martindale, T. Maxwell, McCreery, McIntire, Mercer, Mitchell, Muhlenberg, Overton, Pearce, Pettis, Pierson, Randolph, Reed, Rencher, Richardson, Russel, Sanford, Scott, Wm. B. Shepard, Aug. H. Shepperd, Shields, Semmes, Sill, Smith, Richard Spencer, Sterigere, W. L. Storrs, Strong, Sutherland, Swann, Swift, Taylor, Test, John Thompson, Tracy, Tucker, Varnum, Verplanck, Washington, Weeks, Whittlesey, C. P. White, Edward D. White, Wilde, Williams, Wilson, Yancey, Young—126.

NAYS.—Messrs. Alexander, Alston, Armstrong, Barnwell, James Blair, John Blair, Bockee, Claiborne, Clay, Coke, Craig, Crocheron, Davenport, W. R. Davis, Desha, Draper, Drayton, Foster, Fry, Gordon, Haynes, Howard, Cave Johnson, Lamar, Lea, Letcher, Lewis, Loyall, Lumpkin, McDuffie, Nuckolls, Polk, Potter, Roane, Speight, Sprigg, Standefer, Wiley Thompson, Trezvant, Vance, Vinton, Wayne, Wickliffe—43.

The House then adjourned.

THURSDAY, February 17.

The Judiciary—Repeal of Sec. 25 of the Act of 1789.

The House resumed the consideration of the resolution proposing to print six thousand additional copies of the reports of the majority and minority of the Judiciary Committee.

Mr. FOSTER intimated an intention of taking a course of some latitude on the general question, in the remarks which he should offer; when

Mr. BARRINGER rose to a question of order. He desired to know of the Chair whether, after a subject had been before the House, and finally acted on, (as the bill to repeal the 25th section of the judiciary act had been,) it was in order for members to go into the merits of that subject, on an incidental question to print a document.

The SPEAKER replied, that it was not possible for the Chair to prevent members from going into the merits of the reports, to show why an extra number ought or ought not to be printed. They must be permitted to do so if they chose, however much the House or the Chair might regret it. It was a constitutional right which the Chair could not restrict. On the question simply to print the reports for the House, the debate would not be in order; but, on a motion to print an extra number, the debate on the merits could not be restrained by the Chair.

Mr. BARRINGER would not contest the decision of the Chair, although he still thought the latitude taken in the debate irregular, and would be glad if some gentleman would suggest a mode by which the sense of the House might be taken on it.

Mr. FOSTER then resumed, and entered into a review of the proceedings which had been had on this subject. Several weeks ago, the Committee on the Judiciary were instructed, by a resolution of the House, to inquire into the expediency of repealing or amending the 25th section of the judiciary act of 1789. Scarcely had this resolution passed, when an alarm was sounded through the newspapers, and the people were warned that a deep and fatal blow was meditated against the great judicial tribunal of the country. The commit-

tee were denounced even in anticipation; and we were threatened with the reproaches and indignation of the people, if we presumed to touch this hallowed law. But a majority of the committee, acting under a conscious sense of duty, had the temerity, in the midst of these alarms, and in the face of this galling fire from the press, to make a report recommending the repeal of the section in question, accompanied with a bill for that purpose. The minority of our associates, under a sense of duty equally conscientious, have submitted the counter report which is now on the table.

The bill thus reported, it was expected, would have taken the usual course; but, instead of this, even its second reading was objected to, and its rejection moved, and, on this motion, the previous question was ordered: so that all opportunity of discussing its principles was entirely prevented; and this, too, after a remark by the honorable gentleman from Virginia, (Mr. DODDRIDGE,) that the bill reported was equivalent to a motion to dissolve the Union. Sir, we were not even allowed to repel the imputations thus cast on us.

[Here the SPEAKER reminded Mr. FOSTER that it was not in order to allude to the bill which had been reported by the committee, nor to the proceedings of the House with regard to it. He must be confined to the principles contained in the reports proposed to be printed.]

Mr. F. resumed. In order to confine himself to the limits prescribed by the Chair, he must pass over some remarks he intended to have made, and come immediately to the reports.

The majority of the Judiciary Committee, of whom, said Mr. F., I am one, maintain that the twenty-fifth section of the judiciary act of 1789 confers upon the Supreme Court of the United States powers not authorized nor contemplated by the constitution. It is my purpose to present some views, in addition to those embraced in the report, to establish this position. And, in the outset, I will notice an argument with which we are so often met on questions of this kind. The law, of which the section under consideration is a part, was passed shortly after the adoption of the federal constitution. Many of the members of the Congress by which it was enacted, were also members of the convention which framed the constitution; they, we are told, certainly knew what powers were intended to be conferred on the different departments of the Government, and would not have attempted to confer powers not authorized by the constitution. Mr. Speaker, there is much force in this argument. I place great reliance on the exposition of constitutional powers made by those who aided in the formation and adoption of the great charter of this Government. But, sir, the argument in this instance proves too much for our adversaries—it applies with equal force to every part of this judiciary act; and yet one clause of it has already been declared by the Supreme Court to be unconstitutional. The 13th section of that act provides, among other things, that the Supreme Court "shall have the power to issue writs of mandamus in cases warranted by the principles and usages of law, to any courts appointed or persons holding office under the authority of the United States." But, in the celebrated case of Marbury *versus* Mr. Madison, as Secretary of State, the Supreme Court determined that the authority thus given was not warranted by the constitution. So, sir, gentlemen must admit that the passing of this law by the framers of the constitution and their cotemporaries is not conclusive as to its constitutionality, or that the Supreme Court have erred in their decision—a heresy which charity itself would scarcely tolerate at this day.

But, Mr. Speaker, I will call the attention of the House to another section of this act. The constitution declares that "the judicial power (of the United States) shall extend to all cases in law and equity, arising under this constitution," &c.; and, after enumerating other subjects of jurisdiction, specifies "controversies between citizens of different States." The clause first read is general; the power extends to "all cases in law and equity, arising under the constitution," &c., and even the latter clause is entirely unqualified; no particular class of "controversies between citizens of different States" is designated, and no power is given to Congress to limit the jurisdiction of the court. And yet, sir, in providing for the exercise of this jurisdiction by the circuit courts of the United States, "in suits of a civil nature at common law, or in equity, where the United States are plaintiffs, or an alien is a party, or the suit is between a citizen of the State where the suit is brought, and a citizen of another State," the eleventh section of the judiciary act requires that the matter in dispute should "exceed, exclusive of costs, the sum or value of five hundred dollars." Will any gentleman show me where the authority is given to regulate the power of the courts, or the rights of the parties, by the amount in controversy? What clause of the constitution gives Congress the power to throw open the doors of the federal courts to an individual who has a demand of six hundred dollars, and close them against him who claims only four hundred? None, sir; there is no such clause; the distinction is entirely arbitrary and unauthorized.

Sir, there is another section of this act which merits some consideration. The twelfth section provides, that, "if a suit be commenced in any State court against an alien, or by a citizen of the State in which the suit is brought against a citizen of another State, and the matter in dispute exceeds the sum of five hundred dollars, and the defendant shall, at the time of entering his appearance in such State court, file a petition for the removal of the cause for trial into the next (United States) circuit court to be

held in the district where the suit is pending," then, on certain conditions, the State court is prohibited from proceeding any further, but the cause shall be removed to the circuit court, "and then proceed in the same manner as if it had been brought there by original process." Mr. Speaker, in my view, this is a most extraordinary provision. Here is an instance of a court's being ousted of its legitimate jurisdiction, without being permitted to pronounce a judgment, and that without the consent of one of the parties. I say its legitimate jurisdiction—for it is not pretended that the cause which may be thus removed is not cognizable by the State court. If this were the case, the party would have only to plead to the jurisdiction of the court, and terminate the suit at once. But the law, from its phraseology, evidently contemplates causes in which the State courts have concurrent jurisdiction with the courts of the United States; and, if the defendant chooses to submit to the jurisdiction of the State court, and permit his cause to be tried, its judgment would, doubtless, be valid and binding. Here, then, the court is dependent on the consent of the party for the exercise of its jurisdiction. I repeat that this is a most extraordinary provision, and, so far as I am informed, without a precedent: certainly the country from which we derive most of our principles of jurisprudence furnishes no similar proceedings, and I am not aware that there are any in any of the States where they have courts of different grades, possessing, in many instances, concurrent jurisdiction. I will not say that the law giving this privilege of removing a cause from the State to the United States courts, is contrary to the constitution; but I cannot believe that such a proceeding was contemplated by the framers of that instrument. I have referred to these different sections of the judiciary act, sir, for the purpose of showing how much is wanting of that perfection which is imputed to it, and to lessen that sanctity which is attempted to be thrown round it. I now proceed to the consideration of the section more immediately in question—that section which gives to the Supreme Court its omnipotent powers.

The twenty-fifth section of the act referred to declares that "a final judgment or decree in any suit in the highest court of law or equity of a State in which a decision in the suit could be had, where is drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision is against their validity; or where is drawn in question the validity of a statute of, or an authority exercised under, any State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision is in favor of such their validity," &c., "may be re-examined, and reversed or affirmed, in the Supreme Court of the United States upon a writ of error," &c. The first idea that suggests itself to the mind, in reading this section, is, the distinction made between the parties to the suit, in allowing an appeal. An action is brought in a State court; the defendant sets up, in his defence, a treaty, or the constitution, or a law of the United States. If there be a right of appeal to the Supreme Court from the decision which may be made, it must be derived from that clause of the constitution conferring on the Supreme Court its appellate powers; but that clause extends the power to "all cases in law or equity, arising under the constitution, the laws of the United States, and treaties made under their authority;" whereas this twenty-fifth section confines it to cases where the decision shall be against the validity of the treaty, constitution, &c. The case, then, so far as regards the Supreme Court, arises under the decision of the State court, and not under the constitution or treaty. The party who sets up this defence has a double advantage: if his plea is overruled, he appeals to the Supreme Court, where the decision may be reversed; but, if it is sustained, his adversary has no resort—the judgment of the State court is final. Is there not manifest inequality and injustice here? And will gentlemen tell us by what forced construction of the constitution (that convenient auxiliary of the advocates for power) they establish the right of Congress thus to discriminate between individuals prosecuting their rights in our courts of justice? Sir, this is the law on which, we are gravely told, the union of these States depends—the provisions of which are so perfect, and its character so sacred, that, in the opinion of the honorable gentleman from Pennsylvania, (Mr. CRAWFORD,) even to touch it is profanity!

I come now, said Mr. F., to the principal, and much the most important, feature of this celebrated section—the power it confers on the Supreme Court to re-examine and reverse the judgments of the State courts. And here, sir, the simple inquiry is, whether this power is given by the constitution. For, if it is not, it will not be contended that it can be conferred by statute. On the contrary, if the constitution does give the power, a repeal of this section would not prevent the exercise of it by the court. The powers and duties of the different departments of the Government are specified and defined by the constitution; the mode of their exercise is, in many instances, prescribed by statute. If the twenty-fifth section of the judiciary act had merely pointed out the manner in which appeals should be taken to the Supreme Court, there could be no objection to it—it would then only have been necessary to turn to the constitution, and ascertain to what cases, and from what tribunal, this right applies. But our objection is, that, by this section, powers are conferred on the Supreme Court, not authorized by the constitution, and alarming to the rights of the State courts, and to the sovereignty of the States.

The first argument which I would urge, (and

to my mind it is perfectly conclusive,) to show that the constitution does not give the Supreme Court the right to review and decide upon the judgments of the State courts, is, that that power is not specified in the constitution itself. The powers of the Federal Government are divided into three departments, legislative, executive, and judicial. The powers assigned to each are specified and defined—and to none of the departments more particularly than to the judicial. Very extensive (and I will add alarming) powers are given to it; yet they are specifically enumerated. The agents, too, by whom these powers are to be administered, are pointed out—by "one Supreme Court, and such inferior courts as Congress may, from time to time, ordain and establish."

Let it be remembered that, throughout the constitution, there is not the slightest connection indicated between any of the departments of the Federal with similar departments of the State Governments. No such connection was intended, and, least of all, a supervisory power over any departments of the State Governments, acting within the sphere of their retained sovereignty. Have gentlemen forgotten the proposition made in the federal convention to vest Congress with the power to negative the laws of the State Legislatures? And can there be a doubt that an effort to give the federal judiciary the power to revise and reverse the judgments of the State courts would have shared the same fate? Sir, the jealousy and apprehensions entertained by the friends of the rights of the States, at the powers proposed to be given to the General Government, are matters of history, and how well founded they were, let history answer.

But, sir, there is another reason, which is very satisfactory to me that this right of appeal from a State to the United States court was not understood, at the formation of the constitution, to have been given; and that is, that, in the debates of the State conventions on the ratification of the constitution, there is no reference to this power. Had such been the understanding, the clause supposed to confer it could not have passed unnoticed. What, sir, a clause which has the tendency, not only to prostrate the dignity of State courts, but to humble the sovereignty of State Governments, at the foot of this august tribunal, not to have elicited even a passing remark! When every part of the constitution was so scrutinized, and almost every power proposed to be conferred so zealously resisted by those jealous advocates of State rights in the Virginia convention, can it be believed that this overshadowing, this omnipotent power, would have excited no apprehension? Sir, if the keen and eagle eye of Patrick Henry had but detected it lurking under those terms, "appellate jurisdiction"—had he imagined that it referred to appeals from State courts, he would have exposed and denounced it—and in that glowing and powerful eloquence which was so peculiarly his own, he would have warned his countrymen of "the chains that were forging for them."

But, said Mr. F., I have some other evidence, of rather a more direct and positive character; and to this I particularly ask the attention of the gentleman from New York. The convention of that State which ratified the federal constitution proposed a number of amendments, and among them was the following: "That the Congress shall not constitute, ordain, or establish any tribunals of inferior courts with any other than appellate jurisdiction, except such as may be necessary for the trial of causes of admiralty and maritime jurisdiction, and for the trial of piracies and felonies committed on the high seas; and in all other cases to which the judicial power of the United States extends, and in which the Supreme Court of the United States has not original jurisdiction, the causes shall be heard, tried, and determined in some one of the State courts, with the right of appeal to the Supreme Court of the United States, or other proper tribunal, to be established for that purpose by the Congress, with such exceptions, and under such regulations, as the Congress shall make." Now, sir, can we have any doubt of the opinion entertained by this convention as to the appellate power conferred on the Supreme Court by the constitution? Will gentlemen believe that that convention of sages would have gravely proposed to amend the constitution so as to confer powers already granted? Sir, no man can believe it. They conceived, as the majority of the Judiciary Committee now allege, that this constitution did not give this right of appeal; and, for the expression of this opinion, we have been denounced in unmeasured terms. Sir, gentlemen must pardon me when I tell them they have not examined this question; they have been alarmed by the clamor which was raised, and were afraid to suffer even a discussion of the subject, lest they too should be classed with the nullifiers, traitors, and disunionists.

In reference to the provision of removing certain cases from the State courts to the United States circuit court, previous to any judgment being rendered, I stated, said Mr. F., that I believed this was a provision perfectly anomalous; that there was no precedent for it in England, nor in any of the States. I have since understood that in some of the States cases may be transferred from the court in which they were commenced to one of a higher grade. I make this correction, because I do not wish to found an argument on any erroneous assumption of facts. There is, however, a wide difference between removing cases from one court to another of the same State, and a removal from a State court, clothed, by the constitution of its own State, with power to hear, and finally determine, the cause, to a court of the United States. Between the former, by the constitution of the State, there is a direct connection; not so with the latter. And

although it was competent to the framers of the constitution to have given that right of removing a case from the State to the United States court, I cannot conceive that that right is fairly inferrible from the constitution as it now stands.

But if this right does exist, and if Congress may now, by law, provide for its exercise, it furnishes one of the strongest arguments against the right of appeal from the judgment of a State court. For if a party, on being sued in a State court, may remove the cause to a federal court, and does not choose to avail himself of his privilege, he cannot complain of the judgment which may be rendered; he has voluntarily submitted to the jurisdiction of the State court, and should, therefore, be bound to abide the decision. The plaintiff having selected the tribunal to adjudicate his rights, would have still less cause of complaint if that decision should be against him.

The disrespect shown to the dignity of State courts, by subjecting their judgments to revisal by the Supreme Court, is a matter of little importance to those who regard them as inferior or subordinate to the federal tribunals; but, sir, regarding, as I do, the State institutions, while acting within the sphere of the sovereignty retained by the States, as subordinate to no power whatever, I never can consent to see them thus degraded in rank, and shorn of their rights.

There are some other clauses of the constitution conferring jurisdiction on the Supreme Court, the meaning and extent of which I will take this occasion to examine, as they are intimately connected with the subject of this investigation. I am the more gratified at having the opportunity to do so, because it will enable me to enter into the defence of certain principles which have long been maintained by the State of which I am an unworthy representative; principles which she holds most sacred, and which she will not tamely yield. But I will not fatigue the House with an argument of my own. No, sir, I will not rely on my own feeble arm, when I have weapons so much more powerful and effective within my reach. Sir, when I present the recorded opinions and expositions of James Madison and John Marshall, I know they must command the respect of this House; and it is a source of no little pride and gratification, that most of the prominent principles for which Georgia has contended, in her controversies with the General Government, are amply supported by the opinions of these distinguished men.

The first clause of the constitution, to which I refer, is that which gives to the Supreme Court jurisdiction in "controversies between a State and citizens of another State." Now, let us hear the reason why this power was conferred. I give it in the words of Mr. Madison, and particularly invite the attention of gentlemen who place so much reliance on the exposition of the constitution made cotemporaneously with its formation. I read from Mr. Madison's speech in the Virginia convention, in reply to gentlemen who were vehemently opposed to the ratification of the constitution: "Its (the federal court's) jurisdiction in controversies between a State and citizens of another State," says the gentleman, "is much objected to, and perhaps without reason. It is not in the power of individuals to call any State into court. The only operation it can have, is, that, if a State should wish to bring suit against a citizen, it must be brought before the federal court. It appears to me that this can have no operation but this, to give a citizen a right to be heard in the federal courts; and, if a State should condescend to be a party, this court may take cognizance of it."

What says Mr. Marshall on the same subject? "With respect to disputes between a State and citizens of another State, its (the federal court's) jurisdiction has been decried with unusual vehemence. I hope no gentleman will think that a State will be called at the bar of the federal court. Is there no such case at present? Are there not many cases in which the Legislature of Virginia is a party? And yet the State is not sued. It is not rational to suppose that the sovereign power shall be dragged before a court. The intent is, to enable States to recover claims of individuals residing in other States. I contend this construction is warranted by the words. But, say they, (gentlemen who had objected to this power,) there will be partiality in it, if a State cannot be defendant—if an individual cannot proceed to obtain judgment against a State, though he may be sued by a State." What is Mr. Marshall's reply to this objection? "It is necessary to be so, and cannot be avoided. I see a difficulty in making a State defendant, which does not prevent its being made plaintiff." Sir, I make no comments on these expositions of federal court powers—they are too plain to require any.

The opinions and arguments from which these extracts have been read, were delivered in the year 1788. Who that heard them, Mr. Speaker, would have believed that, in less than five years, a suit would have been instituted in the Supreme Court of the United States, by an individual, against one of the States, and that the jurisdiction would have been maintained by the court? Yet, sir, this was done in several instances; and one of the States against which suit was thus brought, was Georgia! that State which seems doomed to be the subject of General Government experiments. And what course did Georiga pursue? Did she quietly submit to be "dragged before the court?" Did she, in the language of Mr. Madison, "condescend to be a party" to this suit? No, sir. She acted then as she has on a more recent occasion. She considered the summons "to the bar of the Federal (Supreme) Court" as an attack on her sovereignty; and she disregarded it, and resolved to protect herself against

any judgment that might be rendered against her. And what was the consequence of her firmness on that occasion? Although, perhaps, censured and abused for a time, as usual, she very soon after had the satisfaction of seeing her principles recognized by her sister States, as was clearly indicated by an amendment to the constitution, expressly providing that "the judicial power of the United States should not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign State."

But there is another branch of jurisdiction which is claimed for the Supreme Court, under the constitution, but more especially under the twenty-fifth section of the judiciary act, and which has been, very recently, absolutely denied by the public authorities of the State of Georgia. And that is, the right of the Supreme Court, under its appellate power, to review and determine on the judgment of a State court in a criminal prosecution, in which the State is a party. Sir, the view taken of this subject by Mr. Madison, in the celebrated Virginia report of '99, is so clear and conclusive, that I cannot deny myself the pleasure of reading it to the House: "The expression 'cases in law and equity' (in the constitution) is manifestly confined to cases of a civil nature; and would exclude cases of criminal jurisdiction; criminal cases in law and equity would be a language unknown to the law."

"The succeeding paragraph of the same section," continues the report, "is in harmony" with this construction. It is in these words: "In all cases affecting ambassadors, other public ministers, and consuls, and those in which a State shall be a party, the Supreme Court shall have original jurisdiction. In all the other cases, (including cases in law and equity arising under the constitution,) the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as Congress shall make. This paragraph, by expressly giving an appellate jurisdiction in cases of law and equity arising under the constitution, to fact as well as to law, clearly excludes criminal cases, where the trial by jury is secured, because the fact in such cases is not a subject of appeal."

"Once more" (the report adds) "the amendment last added to the constitution deserves attention, as throwing light on this subject. The judicial power of the United States shall not be construed to extend to any suit in law or equity commenced or prosecuted against one of the United States by citizens of another State, or by citizens or subjects of any foreign power. As it will not be pretended that any criminal proceeding could take place against a State, the terms law or equity must be understood as appropriate to civil, in exclusion of criminal cases."

Such, sir, are the sentiments and reasoning of this great statesman on this point. What consideration they may be entitled to, is submitted to the judgment of the House. As, however, his opinions on other subjects are so much sought after of late, and so much admired, I trust they will not be without their weight on this.

But, Mr. Speaker, I have another authority, bearing so directly on this point, that it must not be passed over unnoticed—and to which the serious attention of the gentlemen from New York is again most specially invited. I have already stated that when the convention of that State ratified the federal constitution, they proposed several amendments, which they urged should be adopted. They also prefixed to their assent to the ratification a declaration of certain rights and principles which they conceived were not affected by the constitution, and then added: "Under these impressions, and declaring that the rights aforesaid cannot be abridged or violated, and that the explanations aforesaid are consistent with the said constitution," &c., "We, the said delegates, do assent to and ratify the said constitution." Now, sir, one of these "explanations consistent with the constitution" is in these words: "That the judicial power of the United States, in cases in which a State may be a party, does not extend to criminal prosecutions, or to authorize any suit by any person against a State." Mr. Speaker, it is a well-established principle of the common law, as well as the plain dictate of common sense, that a contract is to be construed as understood by the parties to it at the time it was made. The constitution is a contract between the different States of this Union. New York was a party, and a very important party, to this contract; and she resolved to leave no uncertainty as to her understanding of it, or of the obligations she was about to assume. Sir, it would really seem as if the members of that convention looked forward with a prophetic eye to the disposition of this Government to acquire, by the aid of construction, powers not delegated to it, and that they determined to plant round it as many guards as possible against these dangerous encroachments. And when, among the distinguished names of which that convention was composed, we find those of Jay, Clinton, Hamilton, Morris, Livingston, and many others, the construction which they placed on the constitution is entitled to the highest respect.

There is only one more clause of the constitution, with which I intend to trouble the House; it is that which extends the power of the Supreme Court to "controversies between a State and foreign States." Let us inquire of Mr. Madison what is the intent and extent of this jurisdiction: "The next case (says this gentleman in the Virginia convention) provides for disputes between a foreign State and one of our States, should such a case ever arise; and between a citizen, and a foreign citizen, or subject. I do not conceive that any controversy

can ever be decided in these courts, between an American and a foreign State, without the consent of the parties. If they consent, provision is here made."

To this opinion, I beg leave to add that of Mr. John Marshall, on the same occasion. In reply to Mr. George Mason, Mr. Marshall says: "He (Mr. Mason) objects to its (the federal court's) jurisdiction in controversies between a State and a foreign State. Suppose, says he, in such a suit a foreign State is cast, will she be bound by the decision? If a foreign State brought a suit against the commonwealth of Virginia, would she not be barred from the claim, if the federal judiciary thought it unjust? The previous consent of the parties is necessary."

Thus we see these two gentlemen concurring in the opinion, that to enable the Supreme Court to exercise this jurisdiction, the consent of the parties, the States, is indispensable.

To show more clearly the absurdity of this doctrine, that a foreign State may bring one of these States into the Supreme Court, permit me, Mr. Speaker, to present a single case, as an illustration. There has recently been a dispute between the State of Maine and the province of New Brunswick. Instead, then, of settling it by negotiation between the two Governments, suppose Great Britain had brought an action in the Supreme Court against Maine, for the disputed territory. Sir, it would have been the standing jest of the day; it would have been too ludicrous for grave judicial consideration. Yet, a people residing within the limits of the State of Georgia, who, some four or five years ago, declared themselves independent, have, as rumor informs us, instituted suit in the Supreme Court, as a foreign nation, against that State—and that, too, under the advice of distinguished counsel. That such a case will be sustained, I cannot believe. Georgia has not only given no consent to have the case adjudicated by the court, but she will not feel herself bound by any judgment that may be awarded.

Mr. Speaker, I have spoken of the powers of the Supreme Court, particularly as specified in the twenty-fifth section of the judiciary act, as being vast and alarming. I concur most sincerely with the opinion expressed by my worthy friend from Connecticut, (Mr. HUNTINGTON,) at the last session of Congress, that, "in comparison with the judiciary, all the other departments of this Government are weak and powerless." But, sir, when the gentleman added, that it controlled even sovereignty itself, by pointing it to the clause which says, "thus far shalt thou go, and no farther," I confess I did not correctly understand the import of his language. Little, indeed, did I dream how soon we should have a demonstration of this omnipotence, and that my devoted State was, as usual, to be the subject.

Sir, I have already had occasion to speak of the repeated conflicts of the State of Georgia with this Government. She has, indeed, had her days of darkness and of trial—sometimes standing almost alone, and breasting the almost overwhelming torrent of public opinion. But she remained firm and unmoved; and when the storm has passed over, when the excitement has subsided, she has had the proud satisfaction to see her principles recognized, and to hear her course approved. She still acts upon the same principles—she still pursues the same straightforward course; and, in her present difficulties, she confidently anticipates the same result. She only carries into practical operation the doctrines so clearly laid down, and so ably maintained, by Madison and Marshall; these are the "burning and shining lights" which illuminate her path, and guide her course; and it is for an intelligent and impartial public to say whether, for thus acting, she should be placed under the ban, and devoted to destruction.

Mr. Speaker, it would be a gross affectation if I were to speak of the distinguished individuals who adorn the bench of the Supreme Court in any other terms than those of the most profound respect. But the reverence which is so generally entertained for the characters of the judges excites some of the greatest apprehensions as to the dangers likely to grow out of the powers of the court. Sir, let us remember not only that these judges are fallible, but that they are not immortal. That splendid orb which has been so long the centre of this system—which in its meridian shone with such bright effulgence, and which preserves such mild and steady lustre in its evening hours, is fast verging to the horizon, and must soon set. Its distinguished secondaries, in the revolutions of years, must also finish their course—and who can foresee the character of their successors? With the same powers, and without the same purity of purpose to direct them, who can tell what mischiefs they may not commit? Against these dangers it is our duty to guard. We cannot too cautiously and securely provide against the exercise of arbitrary power. No policy is more unwise and unsafe, than that of confiding powers with reference to the individual by whom they are to be exercised—no matter how pure and elevated the character of that individual may be. Sir, it was for the purpose of providing against future danger, and with the hope of checking an evil which is constantly increasing, and which threatens the peace and harmony of our country—the interference of federal with State authorities—that the majority of the Judiciary Committee were induced to recommend a repeal of that section of our judiciary act which confers upon your Supreme Court such unlimited powers.

As to the resolution immediately under consideration, I have only to say, in conclusion, that, as the majority and minority of the committee differed so widely in their views of the question presented to them, it is both right and

proper that the people at large should see the reasoning by which they have arrived at conclusions so entirely opposite. After the imputations which have been cast upon the majority, we consider it a matter of strict justice that their views should be published, and let an unprejudiced world determine whether we have indeed been plotting treason in the very bosom of our national counsels.

Revolutionary Pensions.

The engrossed bill making further provision for the surviving officers and soldiers, militia, State troops, and volunteers, of the revolutionary service, was read a third time, and the question stated on its passage.

Mr. TREZVANT rose, and said he was aware of the great majority by which this bill had been ordered to be engrossed yesterday, and he knew he was presenting himself in an unenviable position by interposing any obstacles to its immediate passage; yet, contemplating the effects which it must produce upon the financial operations of the Government, he felt constrained, by a sense of duty, to throw himself, for a short time, upon the courtesy of the House. Not content with the bountiful liberality already extended to the brave and gallant men who were engaged in most of the hard-fought battles in that eventful war, which terminated in establishing our independence, we are now called upon to adopt a measure that will embrace within the scope of its bounty all who survive, and which must necessarily increase the number of pensioners to an unknown extent, and create demands upon the Treasury, that will absorb a large proportion of your current revenue. Is the list of pensioners not sufficiently swelled under the existing laws, that we must dispense with the prudent limitations imposed upon the bounty of the Government, and invite multitudes who are not claiming it as a right, or even asking it as a favor, to partake of a liberality almost without bounds, and certainly unprecedented?

At present, a pension cannot be obtained unless the applicant is in necessitous circumstances; and he is held to strict proof of the time of service, which must be, at the least, nine months; and required to furnish, under oath, a schedule of his property. Notwithstanding these wise and salutary restrictions, intended to confine the benefits of your pension system to those who really stand in need of the assistance of their country, and to guard your Treasury against frauds—not less than between eleven and twelve thousand are at this time in the enjoyment of your bounty, requiring, I think, an annual expenditure of between twelve and fifteen hundred thousand dollars. From this data a probable conjecture might be formed as to the effects of this bill, should it pass, in increasing the number of pensioners, and the annual expenditure to be made for the payment of their pensions.

Mr. T. said that he did not know what was the number of soldiers engaged in the revolutionary war. The number, however, must have been very great, if the militia, as well as those in the continental line, are included in the estimate. The war was waged for seven years, and was actively prosecuted from one extremity of the Union to the other. No part of the seaboard escaped its ravages, and the militia, in aid of the regular forces, were frequently called out in all the States, and but few performed a service for a shorter period than six months. It cannot be doubted that there are many thousands, scattered over all parts of the United States, who will be entitled to the benefits contemplated by this bill, and will avail themselves of its provisions. It is impossible to speak with absolute accuracy upon this subject, but the number of pensioners now on the roll furnishes a rule that will enable us to approximate sufficiently near the truth.

At present it should be remembered, that, with the exception of those who were provided for in the act of 1828–'9, none but the indigent, who have served continuously nine months in the continental line, are entitled to the benefits of the pension acts. The possession of more than three hundred dollars' worth of property excludes the soldier from this bounty. With these restrictions, it has been stated that the number at present upon the pension list amounts to between eleven and twelve thousand. It cannot be reasonably supposed that one-third of the survivors of that band of patriots, who knew so well how to estimate the value of liberty, and encountered such fearful perils to secure its possession to themselves and their posterity, have been so regardless of their comfort and independence as, after a lapse of fifty years, uninterruptedly devoted to the improvement of their fortunes, to be found at this day in the possession of less than three hundred dollars' worth of property. Admit, however, that one-third of these men, either by misfortune or improvidence, have been reduced to this condition. Remove the restrictions at present imposed, and from the ranks of the continental line alone you will have a list of pensioners amounting to between thirty and thirty-six thousand. The relative proportion of militia and continental troops cannot be ascertained with precision; but the history of those times, and the recollection of those who witnessed the scenes of that period, and yet live, will bear me out in saying that the militia engaged in the revolutionary struggle, at different times from its commencement to its termination, greatly exceeded the number of regular or continental troops. If they were only equal in number, it is clearly shown that, by the passage of this bill, you will increase the list of pensioners from between eleven and twelve thousand, to between sixty and eighty thousand. With this view of the facts, an opinion may be hazarded, that, to maintain your pensioners, the sum required annually, instead of being, as at present, between twelve and fifteen hundred thousand

dollars, will be between six and ten millions of dollars. Admit, Mr. Speaker, that the smallest of the last-mentioned sums will be required annually to meet the expenditures to be incurred by the adoption of this measure, where is it to come from? Your Treasury may be in a healthful state. It is no doubt prepared to meet expected and ordinary demands, but it is not so redundant as to be able to meet one so unexpected, and of such an extraordinary character. Mr. Speaker, we have yet a heavy and a long-standing debt hanging over us, which sound policy requires should be paid before this system of waste and extravagance should be indulged in. We should be just before we are generous. If this bill should become a law, how will this debt be discharged? It is evident that the sum which will be annually required to carry it into effect cannot be supplied from the current revenue, unless other appropriations necessary to the ordinary current expenses of the Government should be dispensed with, or you invade the sinking fund, long since established, and sacredly pledged to the payment of the interest and principal of the public debt. If you do not impose additional taxes or borrow money, this must be done; and, as a necessary consequence, the payment of the public debt will be postponed. We have been told by the Executive that the revenue of the Government was equal to the payment of this debt as early as the year 1834, or 1835 at furthest. The people have been told so for the last two or three years, and they are most anxiously looking forward to this desirable period. They expect, then, to be relieved from that weight of taxes by which they have been so grievously oppressed, especially since the year 1828. In this country, as in all others, the people look to the degree of taxation they are exposed to, as one of the best evidences of the wisdom or folly, the goodness or badness, of the Government under which they live, and of those who administer its affairs. When their industry is least trammelled by unnecessary burdens, and they are left free to enjoy the fruits of their labor with the least possible interference on the part of the Government, they are not often inclined to complain of the acts of the Government; but under a state of taxation which is felt to be oppressive, and promises to be perpetual, they will complain, and their complaints must ultimately be respected. With a view to avert the evils he apprehended would flow from the bill if it passed in its present form, Mr. T. submitted the following motion:

"That the said bill be recommitted to the Committee of Ways and Means, with instructions to inquire and report to the House the amount which will probably be required annually to carry its provisions into effect, and the amount which probably would be annually required to carry the said bill into effect, provided its provisions were restricted to those only who are in such reduced circumstances in life as to stand in need of assistance of the country for support; and further to inquire and report whether the amount which may be required to carry the provisions of the said bill into effect can be drawn from the Treasury without invading the sinking fund, and thereby postponing the payment of the public debt."

Heretofore, said Mr. T., the policy of this Government had been to confine the benefits of the pension law to those who had been disabled in the military and naval service of the country, and to those who had served in the revolutionary war, and were reduced to a state of indigence and want. Now, it is proposed to go beyond this policy, and to lay the foundation of a splendid pension system. All who participated in the war of the revolution, no matter what their merits may be, are invited to come forward and throw themselves upon the charity and beneficence of the Government—a sumptuous banquet is to be spread, and the country is to be ransacked to gather together multitudes to riot and revel at the feast. It is not in human nature to resist an invitation so strongly appealing to its cupidity and avarice. All who remain, of the regular army, or militia of the war of the revolution, will be quartered upon your Treasury.

Mr. T. said that he knew that much had been said, in and out of the House, of the meritorious services of the revolutionary patriots, and of the debt of gratitude which the country owed them. No one was more ready than he was to award to them that meed of praise to which they were so richly entitled; and he entertained so exalted an opinion of the patriotism by which he trusted they were still animated, that he believed he should go as far as any of them desired, if he contributed in his station here to extend relief to such of them as really stood in need of assistance from their country. If, however, he should be mistaken, in his opinion, as his justification, he would say, that it was a bad rule in legislation to surrender the dictates of the judgment, and follow the impulse of the feelings. Whenever it was done, the consequences invariably proved to be injurious to the people. Mr. T. said he had no inducement, nor did he feel any desire, to derogate from the well-earned fame of the men who fought and suffered to establish our independence, nor would he throw any obstacles in the way of any measure calculated and intended to afford the comforts necessary to their real wants; but he could not consent to give away millions to those who did not stand in need of it. The idea of men who were rolling in affluence and indulging in all the luxuries of civilized life being sustained and supported at the public expense, in a country and under a Government where we boast of equal rights, was to him odious in the extreme, and would be so considered by the people. He must beseech gentlemen again to weigh well the consequences of this measure. Sixty thousand pensioners to be maintained from your Treasury by the annual expenditure of an amount that must arrest for

some time the payment of the public debt, and fasten upon the people, for an indefinite period, a system of taxation, under which, even now, they are justly restless and dissatisfied, must present a consideration that the prudent and discreet would not cast aside.

Mr. T. said that he had designedly confined the remarks which he had made upon this subject to those points to which, in support of his motion, he had felt it his duty chiefly to call the attention of the House; but, before he took leave of the subject, he would say that he felt opposed to the pensioning system, upon other grounds. He believed it was better calculated to demoralize the community than almost any other kind of legislation. It weakens those ties which, in all well-regulated communities, should be sedulously cherished as the strongest ligaments which bind man to the performance of his social duties. The aged parent, who has a moral right to lean upon his offspring for support in the decline of life, will be told that that obligation no longer exists, as the Government has undertaken to provide for him. The brother will be denied the hospitality of a brother's roof, or a place at his board, and turned out of doors to live upon the charity of Government. Those affections, which constituted the chief enjoyment of life, will be put to hazard by the introduction of such an extended system of governmental charity. Mr. T. said that he regretted he had occupied so much time in presenting his views upon this subject to the House, especially as he was satisfied his efforts would be unsuccessful; yet he should have the consolation to know that he had attempted to discharge his duty to his constituents and to the country, and at the same time that he had obeyed the dictates of his own conscience in submitting what he had said.

Mr. TUCKER, of South Carolina, said he was in favor of doing something for the State troops, volunteers, and militia. These men had rendered services as important, had endured hardships as great, and suffered privations as distressing, as the regular soldiers. The time was, during the revolution, that every thing depended upon them; they were subject to daily alarms, and daily calls to resist the devastating progress of the enemy—they met these calls with alacrity, and a patriotism inferior to none—exposed their lives and shed their blood in defence of their country's freedom; and were they now to be forgotten? Was Congress to legislate for the benefit of the regular soldier only? Those in the regular service stipulated to serve for a certain sum, and most of them had been paid agreeably to the contract.

It would be recollected, he said, that most of those in the South, who took an active part in achieving the liberties of the country, belonged to the militia; but it made no difference with him to what section of country that class of soldiers belonged. They had rendered essential services: without them the war could not have been successfully carried on, and, but for their patriotic exertions, we might have been at this day groaning under the yoke of a foreign despot. They had never received their pay in any thing but a depreciated paper currency of nominal value. But few of them now remain, and a large portion of these were borne down by age and infirmities, and lingering out a miserable existence under the blighting influence of a cheerless poverty. Should these men now be told, in the evening of their days, that they were less patriotic, that their services were less valuable, and they less deserving, than the regular soldiers? Such an invidious distinction was unfeeling and cruel. Mr. T. said, we owe them a debt: we are their debtors, and they our creditors. Justice demands that we should pay them. By our acts of legislation, we had made provision for a class of officers and soldiers, to which class belong many who are in easy circumstances. [He alluded to the act of 1828, which provided for all those who enlisted for and served during the war, without reference to their pecuniary situation.] He could see no ground for distinction, nor could he discover any good reason for paying that class in preference to the militia. The distinction, he said, was odious and unjust. It evinced a partiality on the part of the Government, not warranted by the circumstances of the case. He had never been the friend of the pensioning system; but as it had been adopted, and would be kept up by the Government, he insisted that even-handed justice should be awarded to all. Would any gentleman say to him that such men as the immortal Sumter and Marion, with their devoted compatriots, were less worthy or less deserving than those attached to the regular service? South Carolina held them in the most grateful remembrance. Their venerated names shed a lustre of glory upon that State, and their patriotic devotion adorned the pages of American history. Shall we, said he, suffer the brave followers of these brave men to pine in want and die in poverty, while we are awarding our bounty to those who are not more deserving? Justice was all that he desired; and, in giving his vote for paying the militia, he considered that he should act in strict conformity to her requirements. He had named Sumter and Marion—he might add, Butler, Williams, Pickens, Hill, and a host of others, who rendered services unequalled in the history of the revolution. Could any American read the record of their patriotic deeds, and lay his hand upon his heart, and say they were less deserving than those for whom provision has been made? He repeated that it was not only a debt of gratitude which we owed to these men; but we were under a pecuniary obligation to them, which had never been discharged. As the representatives of honest constituents, willing to discharge their honest debts, he should venture to give his assent to paying these men.

It is but a few days, said Mr. T., since we voted a large amount as a donation to a dis-

tinguished individual of this country. He alluded to Mr. Monroe, late President of the United States. Why was that sum voted to him? Because his fame had been shed abroad, and the splendor of the gift was to make a flourish in the world. Will this Government be generous and refuse to be just? Shall the poor militia man be denied his honest due, and kept from his scanty pittance, while we lavish our thousands and tens of thousands upon those who have no legal claim upon us? Let the American people avoid the reproach which such a course of legislation would bring upon them. Justice was equally due to the high, the low, the rich, and the poor; and so long as he had a tongue to utter a sentence, he would advocate this principle.

Mr. T. said you have expended money enough in your unconstitutional works of internal improvement—in the construction of your big and little roads, your canals, and your surveys, to have paid those poor men what was their due. In your anxiety to prosecute a splendid national scheme, and to dazzle the world with the glory of a great American system, you have forgotten the debts you owed, and the sufferings of those to whom they were due. Pursue this policy a little longer—lavish your money upon some who are not entitled to it—withhold it from others to whom it is due, and squander your treasure according to the policy of your misnamed American system, and your liberties are gone forever.

Mr. CARSON was against the bill, as at present advised, (having been detained from the House by indisposition yesterday, during the discussion,) and was in favor of the commitment, to ascertain, as near as practicable, what it would cost.

Mr. VERPLANCK made an explanation in reply to some of the statements of Mr. TREZVANT, giving it as his opinion, from the best data in possession of the committee, which he stated in detail, that the bill would require an additional expenditure of not more than from 800,000 to $1,000,000, and this rapidly decreasing, and soon, in the course of nature, to be entirely discontinued. He concluded with moving the previous question.

The motion was sustained; and the question being put on the passage of the bill, it was decided in the affirmative—yeas 182, nays 52.

So the bill was passed, and sent to the Senate for concurrence.

Appropriation Bills—Improvement of the Navigation of the Ohio River.

Mr. WICKLIFFE moved an amendment to appropriate an additional sum of $150,000, to be expended, under the direction of the present superintendent, in the improvement of the navigation of the Ohio River, from its mouth to Pittsburg, in removing the obstructions in the channels at the shoal places and ripples, and by the erection of wing dams, or such other means as, in the opinion of said superintendent, will best answer the purpose of deepening the channels of said river.

Some debate arose, in which Mr. CARSON opposed the appropriation. Messrs. WILDE and MCDUFFIE objected to inserting it in the present bill, which was intended only to appropriate for objects already authorized by law; and Mr. WICKLIFFE defended it.

Mr. VINTON said that he would not, at that late hour, give his reasons at large upon the proposed amendment, but he would state, in a few words, the ground upon which he thought it ought to be adopted. The improvement of the navigation of the Ohio River was, in truth, nothing more than an extension of the canals of Ohio and Pennsylvania. These two States were incurring an expense of ten or fifteen millions of dollars; the one in opening a canal from Philadelphia to Pittsburg, and the other, between Lake Erie and the Ohio River; thus opening a continued communication from Philadelphia to New Orleans by the Pennsylvania Canal, and from New York to New Orelans through the Erie and Ohio Canal. Owing to certain shoals in the Ohio River, its navigation was almost wholly suspended for about two months every autumn; and that, too, at the very best season of the year for business on these canals. The loss of business on this account must be very great. It is of little consequence that the Ohio Canal enters the Ohio River, unless the produce of the interior can descend to New Orleans, or other place of destination. So of the Pennsylvania Canal; it is in vain for that State to think of participating to any considerable extent in the trade of the Western country at that season of the year, unless the navigation of the Ohio is opened to Pittsburg, so that produce may ascend and merchandise descend the river, on their way to and from Philadelphia. The making of these canals, which will now be finished in a year or two, renders it of vast importance to keep the navigation of that river always open while business can be done upon them. We have a report lying upon the table, showing that the shoals in the river can be deepened at a very moderate expense. The improvement of its navigation properly belongs to the General Government. And he hoped, considering the vast expense the States of Pennsylvania and Ohio were incurring in opening avenues of trade to the Ohio, that the comparatively small sum of $150,000 would not be denied in aid of their great efforts.

Mr. DENNY said, as I come from the borders of the Ohio, I may be permitted to say a word or two on this subject. It is one of great importance to the Western country. The Ohio River may with great propriety be considered a great national highway; it forms the boundary between several of the States; it is the great channel of their commerce, and, to some portions, the only outlet for their trade; and, in my opinion, is as deserving of the attention of the Government as any portion of the seaboard. Much has been done to facilitate our

commercial intercourse along the Atlantic; large sums of money have been expended for improvements in the bays, clearing the harbors, opening channels, and removing obstructions to navigation, along our extensive seacoast, wherever the tide flows, from north to south. But, sir, it seems to me, that some gentlemen are seized with a kind of hydrophobia so soon as we leave the salt and propose improvements in the fresh water region. I am willing with them to vote millions for the improvement and protection of our harbors and seaports, because it is for the benefit of the commerce of our country. The whole Union is benefited by such expenditures, because the whole Union has an interest in the commerce of every port; and certainly to facilitate our internal commercial communication, particularly among the great and flourishing Western States, is equally worthy our attention, in a national point of view. I can perceive no difference between this commerce and our coasting trade, which enjoys so largely the favorable consideration of the Government.

To the Western States, the Ohio is the most important channel of their intercourse; and it is true, as remarked by the gentleman from North Carolina, (Mr. CARSON,) they will be immediately benefited by the proposed appropriation. But, sir, the advantages to be derived from the improvement under this appropriation will not be felt exclusively in those States; the whole nation will experience the beneficial effects in the additional facilities afforded to commerce; and this is the great basis upon which the advocates of internal improvement rest their cause. Clearing away the obstructions from the harbor of one of our towns on the seacoast, is for the immediate benefit of the town; it gives security to the trade, and promotes its prosperity, and the commerce is increased and protected; the work is not, therefore, to be considered merely a local matter. No, sir, commerce is a national object; we all participate in its benefits, and have an interest in its prosperity.

It is well known that, at this late period of the session, with a mass of business before us, it would be impossible to pass a bill through this House in the usual mode. I cannot perceive any weight in the objections made to this proposition; it violates no rule of this House. What principle of legislation does it outrage? None, sir. I trust, therefore, that the amendment will be adopted.

Mr. DODDRIDGE also made a few remarks in favor of the amendment; after which it was agreed to—yeas 79.

On motion of Mr. LETCHER, an appropriation was inserted of $15,000 for making a road in Arkansas.

FRIDAY, February 18.

Inland Ports of Entry.

Mr. CAMBRELENG, from the Committee on Commerce, reported a bill allowing the duties on foreign merchandise imported into Pittsburg, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places; which was twice read, and Mr. C. moved that it be ordered to a third reading.

Mr. MCDUFFIE opposed the motion, because it was a subject which belonged to the revenue, and ought to have been before the Committee of Ways and Means. It, moreover, was a novel principle—one involving a great expenditure, in the number of custom-house officers which would have to be appointed; and if the principle were adopted, every large town in the Union situated on a river would be entitled to the same privilege. He moved the reference of the bill to the Committee of Ways and Means.

Mr. WICKLIFFE and Mr. PETTIS defended the bill against the objections urged, and argued to show its necessity to the convenience of the large and thriving commercial places comprised in the bill. Before the question was taken, the hour elapsed.

TUESDAY, February 22.

Foreign Coins.

Mr. WHITE, of New York, from the committee appointed on the 23d December "to inquire into the expediency of providing that dollars of the New American Governments, and five franc pieces, shall be a legal tender in the payment of all debts and demands; and, also, whether any additional regulations are necessary to the recoinage of foreign silver coin at the mint," made a long and detailed report, accompanied by a bill regulating the value of foreign silver coins within the United States. The bill and report were committed.

Mr. WHITE, of New York, from the same committee, to which was referred the bill from the Senate concerning the gold coins of the United States, also made a long and detailed report thereon, accompanied with an amendment to the said bill; which report and bill were also committed.

On motion of Mr. BUCHANAN, three thousand additional copies of these reports were directed to be printed for the use of the members of the House.

Insolvent Debtors.

The House then took up the bill for the relief of certain insolvent debtors of the United States.

Mr. BUCHANAN said, that when the House some days since, upon his motion, had kindly consented to take this bill up out of its order, he had then declared he should occupy but a very short time in its discussion. He said he would now redeem that pledge; and as time had become still more precious, and the close of the session was so near at hand, he would content himself with a very brief exposition of

the nature of the bill. Should any gentleman, however, desire a further explanation upon any point, he would hold himself ready to give it.

This bill, said Mr. B., contains but a single principle. It merely enables the Secretary of the Treasury to compromise with such debtors of the United States as were insolvent on the 1st day of January last, and confers upon him the same power of releasing those debtors which every individual possesses. All such debtors of the United States are embraced within the provisions of this bill; except the principals in official bonds, and those who have actually received public money, and not paid it over, or accounted for it according to law.

At present, the Executive Government of the United States possesses no power, in any case, no matter what may be the circumstances, to compromise with its debtors, and accept a part of the demand instead of the whole. The man who has become insolvent, should he be a debtor of the United States in a sum which he is unable to pay, is, under existing laws, placed in a state of helpless and hopeless despair. His individual creditors, convinced of his honesty, may be willing to release him; his friends may be willing to furnish him the means of recommencing business; but this is all in vain, whilst the debt due the United States hangs like a millstone around his neck. From this there is no escape. Justice, relentless justice, untempered by mercy, is now our only rule of conduct towards our insolvent debtors.

Even if our policy were purely selfish, and we acted from no higher motives than a regard for dollars and cents, we ought to pass this bill. From the examinations which I have made, and the information I have collected upon this subject, I entertain no doubt but that this bill, should it become a law, will bring at least one million of dollars into your Treasury, not one cent of which can ever find its way there unless some measure of this nature shall be adopted. There are now in this country many, very many, honest and enterprising merchants, who, although they have become insolvent, retain the highest character among their friends, and in the society of which they are members. In a great number of instances their insolvency cannot be attributed even to negligence or want of skill, but has been wholly the effect of causes which they could neither foresee nor control. Some instances of this character have come to my knowledge, which would be well calculated to enlist the feelings of this House in favor of the bill. There is now an insolvent merchant in the city of Philadelphia, whom this bill would relieve, who has paid into the Treasury of the United States between three and four millions of dollars in duties. His insolvency was, in a great degree, I think I might say solely, occasioned by the passage of a bill through the Senate, in 1826, to reduce the duties on tea. The reputation of this gentleman, both as a man and as a merchant, stands as high as it ever did in his most prosperous days; and should the power be conferred on the Secretary of the Treasury to compromise with him for the debt which he owes the Government, his friends will immediately furnish him the means of recommencing business. He will have no difficulty in compromising with his individual creditors. This is but one instance out of many of a similar character, which have come to my knowledge.

Suffer me to advert to another case by way of illustration. A merchant in the city of New York has become insolvent. He is indebted to the Government in a very large sum of money, one dollar of which he is not able to pay. The father of this merchant, anxious to obtain a release for his son, and enable him again to go into business, has actually offered to transfer to the United States property estimated to be worth between four and five hundred thousand dollars, provided his son shall be discharged from the debt. This offer could not be accepted by the President for want of power; and thus the United States, should this bill be negatived, will lose, in a single case, nearly half a million of dollars.

There are many similar cases in which the friends and the relatives of insolvent debtors will come forward and enable them to pay the Government a part of its debt, in consideration of obtaining a release for the whole. Mr. B. said he expressed his own opinion merely when he stated that the passage of the bill would bring at least a million of dollars into the Treasury; there were others, with better means of judging than himself, who believed the sum would greatly exceed that amount.

But, sir, said Mr. B., much higher motives than those of a pecuniary character enter into the consideration of this question. There are many honest and enterprising men in this country, having families dependent upon their exertions, who will be left utterly without hope, should this measure be defeated. All their creditors, except ourselves, are willing to compromise with them. Shall we then continue to be inexorable?—shall we alone have no mercy, even although mercy be our best policy?—shall we, merely for the sake of oppressing our debtors, deprive ourselves of more than a million of dollars?

By the passage of this bill you will restore many of our best citizens to usefulness. Men who have long been prostrated in the dust by the weight of debts which has been continually pressing upon them, will again spring into fresh and vigorous action the moment this pressure is removed. Hundreds and thousands are now looking anxiously towards you for relief, and regard the adoption of this measure as their only remaining hope on this side of the grave. Why will you not afford these men relief? Why will you not suffer them by their enterprise and industry to add to the wealth and prosperity of the country when you can grant them this boon, not only without injury, but with positive benefit to your Treasury? But I must be brief,

and will pursue this branch of the subject no further.

The bill is entirely retrospective in its nature, and can have no effect upon future cases of insolvency. Its relief will, in almost every case, be confined to men who are now notoriously insolvent. There is, therefore, much less danger of fraud upon the Government, than if it applied to future cases. But this consideration has not prevented the Judiciary Committee from guarding the bill with the utmost care, and rendering it impossible, so far as they could, that a fraudulent debtor should take advantage of its provisions. In the performance of this task, they have been much assisted by the suggestions of the Secretary of the Treasury, and, Mr. B. said, he would venture to assert, there was greater danger that the bill instead of being too lax was too rigorous in its provisions. He said he would not, at present, remark upon any of its details.

Mr. WILLIAMS briefly submitted his objections to the bill. It was to a certain extent a bankrupt bill, and moreover placed too great a power in the hands of the Treasury Department. He was in favor of referring the cases in the first instance to judicial investigation.

Mr. JOHNSON, of Kentucky, made a few earnest remarks in support of the bill.

Mr. WAYNE combated the objections of Mr. WILLIAMS, in an argument of some length, and urged with zeal the policy of the bill.

Mr. HUNTINGTON said he had risen principally to reply to an objection which had been made to the bill by his friend from North Carolina, (Mr. WILLIAMS.) Before, however, adverting to this objection, he would, in relation to the general merits of the measure under consideration, remark, that he considered the passage of the bill would be the performance of an act equitably, if not in justice, due to the public debtors embraced by its provisions, while, at the same time, it would be instrumental in causing a portion of the debts now due to the United States, to be paid, which would otherwise be lost to the Government. This would be obvious, when the House should consider, as it would, that many of the public debtors, both principals and sureties, by misfortune, and from causes not within their control, have become entirely insolvent; that they sustain irreproachable characters for integrity and industry; and that while pressed with the weight of their obligations to the Government, and without the means of removing it, they are alike without the ability and the motive necessary to enable or induce them again to commence business. So long as an authority to compromise with them is withheld; so long as their persons are subjected to imprisonment, and they held responsible for the debts until they shall have paid them in full, and this, too, when they have not the means of discharging any part of them—the industry, labor, and enterprise of this valuable class of our citizens are lost to the country. From this situation, so distressing to the debtors, without any corresponding benefit to the Government, this bill relieves them. It enables them to obtain the assistance of friends, through whose kindness and generosity they can make offers of compromise, pay their debts in part, and be discharged from the residue; and thus, while the Treasury is benefited, the individual debtors are enabled once more to engage in the business of the world, free from the pressure of debt, and stimulated to active exertion by the consciousness that the fruits of their industry will be their own. The bill has been drawn up with great care, to secure the Government against attempted fraud; and if it be obnoxious to any objection, it arises perhaps from what might be thought to be the severity of some of its provisions upon the debtors. If, however, it be carried into execution in the spirit of its various enactments, as it no doubt will be, a highly meritorious class of our citizens will be raised from a state now of hopeless depression, to one offering inducements to renewed exertions in useful employments; and a portion of the claims against them, which are now of no value, by reason of the poverty of the debtors, will be paid by the liberality of their friends. Thus much, Mr. H. observed, he was unwilling to omit saying, in regard to the beneficial consequences which would result, both to the debtors and to the United States, should the bill become a law.

The gentleman from North Carolina (Mr. WILLIAMS) had urged, as an objection to the bill, (if he understood him correctly,) that the power proposed to be vested in the Secretary of the Treasury should be given to the courts of the United States; and that the facts to be proved, on which alone relief is to be granted, should be ascertained through the intervention of a court and jury. In answer to this objection, Mr. H. said that it was difficult to see why all the necessary facts could not be ascertained by the commissioners to be appointed in the manner provided by the bill, with as much security to the Government against fraud, as by any other tribunal. They would be equally competent, vigilant, and trustworthy. Their proceedings will be public, and their means of detecting fraud as ample as can be devised; and the House would perceive that the power to afford the relief authorized by the bill to be given, could not be vested in any court, for the Secretary of the Treasury is authorized to compromise the debts of the applicants, on such terms as, under all the circumstances attending each particular case, he may deem equitable to the debtor and just to the Government. Neither a court of law nor of equity could execute such a discretionary power. It must be vested in some executive officer, and in no one with as much propriety as in the officer at the head of the Treasury Department. Mr. H. said he would conclude by expressing the hope that a bill which had in view the twofold object of awarding both justice and equity to an unfortunate and meritorious class of public debtors,

the nature of the bill. Should any gentleman, however, desire a further explanation upon any point, he would hold himself ready to give it.

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By the passage of this bill you will restore many of our best citizens to usefulness. Men who have long been prostrated in the dust by the weight of debts which has been continually pressing upon them, will again spring into fresh and vigorous action the moment this pressure is removed. Hundreds and thousands are now looking anxiously towards you for relief, and regard the adoption of this measure as their only remaining hope on this side of the grave. Why will you not afford these men relief? Why will you not suffer them by their enterprise and industry to add to the wealth and prosperity of the country when you can grant them this boon, not only without injury, but with positive benefit to your Treasury? But I must be brief,

and will pursue this branch of the subject no further.

The bill is entirely retrospective in its nature, and can have no effect upon future cases of insolvency. Its relief will, in almost every case, be confined to men who are now notoriously insolvent. There is, therefore, much less danger of fraud upon the Government, than if it applied to future cases. But this consideration has not prevented the Judiciary Committee from guarding the bill with the utmost care, and rendering it impossible, so far as they could, that a fraudulent debtor should take advantage of its provisions. In the performance of this task, they have been much assisted by the suggestions of the Secretary of the Treasury, and, Mr. B. said, he would venture to assert, there was greater danger that the bill instead of being too lax was too rigorous in its provisions. He said he would not, at present, remark upon any of its details.

Mr. WILLIAMS briefly submitted his objections to the bill. It was to a certain extent a bankrupt bill, and moreover placed too great a power in the hands of the Treasury Department. He was in favor of referring the cases in the first instance to judicial investigation.

Mr. JOHNSON, of Kentucky, made a few earnest remarks in support of the bill.

Mr. WAYNE combated the objections of Mr. WILLIAMS, in an argument of some length, and urged with zeal the policy of the bill.

Mr. HUNTINGTON said he had risen principally to reply to an objection which had been made to the bill by his friend from North Carolina, (Mr. WILLIAMS.) Before, however, adverting to this objection, he would, in relation to the general merits of the measure under consideration, remark, that he considered the passage of the bill would be the performance of an act equitably, if not in justice, due to the public debtors embraced by its provisions, while, at the same time, it would be instrumental in causing a portion of the debts now due to the United States, to be paid, which would otherwise be lost to the Government. This would be obvious, when the House should consider, as it would, that many of the public debtors, both principals and sureties, by misfortune, and from causes not within their control, have become entirely insolvent; that they sustain irreproachable characters for integrity and industry; and that while pressed with the weight of their obligations to the Government, and without the means of removing it, they are alike without the ability and the motive necessary to enable or induce them again to commence business. So long as an authority to compromise with them is withheld; so long as their persons are subjected to imprisonment, and they held responsible for the debts until they shall have paid them in full, and this, too, when they have not the means of discharging any part of them—the industry, labor, and enterprise of this valuable class of our citizens are lost to the country. From this situation, so distressing to the debtors, without any corresponding benefit to the Government, this bill relieves them. It enables them to obtain the assistance of friends, through whose kindness and generosity they can make offers of compromise, pay their debts in part, and be discharged from the residue; and thus, while the Treasury is benefited, the individual debtors are enabled once more to engage in the business of the world, free from the pressure of debt, and stimulated to active exertion by the consciousness that the fruits of their industry will be their own. The bill has been drawn up with great care, to secure the Government against attempted fraud; and if it be obnoxious to any objection, it arises perhaps from what might be thought to be the severity of some of its provisions upon the debtors. If, however, it be carried into execution in the spirit of its various enactments, as it no doubt will be, a highly meritorious class of our citizens will be raised from a state now of hopeless depression, to one offering inducements to renewed exertions in useful employments; and a portion of the claims against them, which are now of no value, by reason of the poverty of the debtors, will be paid by the liberality of their friends. Thus much, Mr. H. observed, he was unwilling to omit saying, in regard to the beneficial consequences which would result, both to the debtors and to the United States, should the bill become a law.

The gentleman from North Carolina (Mr. WILLIAMS) had urged, as an objection to the bill, (if he understood him correctly,) that the power proposed to be vested in the Secretary of the Treasury should be given to the courts of the United States; and that the facts to be proved, on which alone relief is to be granted, should be ascertained through the intervention of a court and jury. In answer to this objection, Mr. H. said that it was difficult to see why all the necessary facts could not be ascertained by the commissioners to be appointed in the manner provided by the bill, with as much security to the Government against fraud, as by any other tribunal. They would be equally competent, vigilant, and trustworthy. Their proceedings will be public, and their means of detecting fraud as ample as can be devised; and the House would perceive that the power to afford the relief authorized by the bill to be given, could not be vested in any court, for the Secretary of the Treasury is authorized to compromise the debts of the applicants, on such terms as, under all the circumstances attending each particular case, he may deem equitable to the debtor and just to the Government. Neither a court of law nor of equity could execute such a discretionary power. It must be vested in some executive officer, and in no one with as much propriety as in the officer at the head of the Treasury Department. Mr. H. said he would conclude by expressing the hope that a bill which had in view the twofold object of awarding both justice and equity to an unfortunate and meritorious class of public debtors,

and of enabling the Government to realize a portion of debts due to it, now wholly uncollectable, would receive the support of every member of the House.

Mr. STORRS, of New York, also replied to Mr. WILLIAMS, and advocated the bill.

Mr. SEMMES moved to limit the operation of the bill to two years; but, at the suggestion of Mr. ELLSWORTH, who doubted whether all the cases would be closed within that time, the motion was varied to three years, and thus was agreed to.

An appropriation of $3,000, to defray the expenses of the act, was inserted, on motion of Mr. BUCHANAN.

The bill was ordered to be engrossed for a third reading.

Mr. Rhind's Arabian Horses.

The following Message was received from the President of the United States:

To the Congress of the United States:

I submit herewith to Congress a letter from Mr. Rhind, stating the circumstances under which he received the four Arabian horses that were brought by him to the United States from Turkey. This letter will enable Congress to decide what ought to be done with them.

ANDREW JACKSON.

The following is a copy of Mr. Rhind's letter.

WASHINGTON, *Dec.* 10, 1830.

SIR: I think it proper to state the circumstances under which I became possessed of the Arabian horses landed from the vessel in which I reached the United States from Turkey.

Finding, during my residence at Constantinople, that our Turkish friends were far behind us in many improvements, I suggested to the Ministers several which were of great use to them; and, after closing the business of the negotiation, much of my time was occupied in giving them draughts, schemes, and elucidations. The Sultan, I understood, took great interest in these suggestions, and many inquiries were made of me, by his request, to all of which I afforded the best explanation in my power.

It being customary at that court for the person who negotiates a treaty to remain there until the ratifications are exchanged, or, by express assent of the Porte, to leave a person in his place, I was, therefore, under the necessity of appointing Mr. Navoni to that station, and presented him in that capacity to the Reis Effendi.

I shortly thereafter took final leave of the Turkish Ministers.

Finding that no vessel would leave Turkey for the United States prior to the 1st of September, I determined, instead of remaining idle at Constantinople, to proceed to Odessa, a voyage of three days, and make the necessary arrangements there for the reception of our vessels; having accomplished this, I returned to Constantinople on my way to Smyrna, where I was to embark.

On reaching the capital, I had several interviews and communications with my former Turkish friends, and suggested other improvements in their system, very gratifying to them.

Being informed by the Reis Effendi that permission would be granted me to export one or more Arabian horses, and conceiving that, whilst it would be a personal object to myself, it would also be a benefit to our country, if I succeeded in conveying one to the United States, I visited the studs of many of the nobility, in order to select some, and was on the eve of closing for the purchase of two, when, the circumstance coming to the knowledge of the Sultan, he, on the 31st of August, directed four horses to be sent me in his name. Although this was evidently not intended as a present to me in my official capacity, since the Ministers were aware I could not accept them as such, still the gift was one that could not be returned without giving offence. Being well informed that to refuse them would be considered an insult to the Sultan, and would doubtless be attended with injury to the interests of the United States, Mr. Navoni, as well as others, assured me that I must take them away from Constantinople, if I should cut their throats and throw them overboard the next day. I was consequently obliged to take them and relinquish the purchase of those I had selected. I immediately had the four horses appraised, by competent judges, on the spot, and took them with me to Smyrna.

Having no funds of the United States, or the means of raising them, to pay for their expenses and passage to America, I shipped them as a commercial adventure, in the name of, and for account of, the owners of the vessel in which they came, and from whom I had secured an individual credit on London previous to leaving the United States. The horses are consequently in their possession; but, if the United States have a claim for their value, I presume those gentlemen will pay it over, should they sell for more than the expenses attending them, which, of course, are very considerable.

So far as regards myself, I am ready to transfer to the United States any right, title, or interest I may have in them should it be required.

With great respect, I have the honor to be your obedient servant, CHAS. RHIND.

To the President of the United States.

The subject was referred to the Committee on Foreign Affairs.

MONDAY, February 28.

Death of Senator Noble.

A message was received from the Senate by their Secretary, notifying this House that the honorable JAMES NOBLE, a Senator of the United States from the State of Indiana, died at his lodgings in this city on the 27th instant, and that his funeral will take place this day at half past eleven o'clock A. M. Whereupon,

Mr. TEST moved the following resolution, viz:

Resolved, That the members of this House will attend the funeral of the honorable JAMES NOBLE, late a member of the Senate from the State of Indiana, this day, at the hour appointed; and as a testimony of respect for the memory of the deceased, they will go into mourning, and wear crape round the left arm for thirty days.

This resolution was agred to unanimously.

On motion of Mr. VANCE, it was then

Ordered, That, for the purpose of attending the funeral of the late Senator NOBLE, the House will take a recess until three o'clock, P. M.

TUESDAY, March 1.

Baltimore and Washington Railroad Bill.

The bill from the Senate, authorizing the Baltimore and Ohio Railroad Company to extend a lateral railroad from Baltimore to Washington, together with certain amendments thereto, being taken up,

Mr. DODDRIDGE, Chairman of the Committee for the District of Columbia, moved that the House concur in the amendments of the Senate.

Mr. SMOOTS, of Maryland, moved to recommit the bill to the Committee for the District.

Mr. HOWARD opposed the motion to recommit with great earnestness. He was confident that the amendments need only to be read, to have their propriety at once perceived. They had been printed; and if the gentlemen had not read them, it was their own fault. One of the amendments went to reserve the right of Congress to pass laws hereafter for the opening of branch roads, and to regulate the speed of cars. The other, which had been inserted at the instance of the representation of the District, went to limit the termination of the road within the District, to some point between the capitol and Seventh street—instead of carrying it to the President's house or Rock Creek. If any objection were made to this, it was to be expected from the corporation of Washington. But both the boards constituting that body had prayed for this restriction; and, if they consented to it, who could justly oppose it? Mr. H. expressed a fear that if the bill should be now recommitted, it would never regain its place on the calendar. He explained what had been done by the Legislature of Maryland on this subject. They had granted to the company liberty to make the road as far as the District line, on condition that it should be commenced within one year. If the present bill should be rejected, or lost by delay, the company would be left in an embarrassed situation.

The question being then put on concurring with the Senate in their amendments to the bill, it was carried by a large majority.

The Turkish Mission.

The next amendment in order was the appropriation of $15,000, as compensation to the commissioners who negotiated the late treaty with the Ottoman Porte. The Committee of Ways and Means had recommended to strike out the amendment of the Senate which provided for this item, with a proviso going to disapprove of the appointment of the commissioners during a recess of the Senate.

Mr. VERPLANCK, Chairman of the Committee of Ways and Means, explained the grounds on which that committee had recommended to strike out this item from the amendments of the Senate. Of the exact character of the persons to be compensated, he would not speak, as there was no distinct evidence on that subject before the House; whether they were to be understood as acting under a special commission as the personal agents of the President, or whether they were to be considered as chargés des affaires, there was no evidence on which to decide. The subject was known to have excited great warmth elsewhere; and the committee, considering the very inaccurate information submitted to them, and believing that the great question entered into by the proviso was likely, especially at so late a period of the session, to delay, and possibly endanger, the bill, and thereby injuriously to affect other great interests, had been unanimous in recommending that the whole amendment, as well the appropriation as the proviso accompanying it, should be stricken out. The parties concerned would, he presumed, be paid either from the contingent fund, or from the secret service fund; but, if not paid at this time, they must take their chance of being provided for by the next Congress. The committee considered it an act of public duty to report against the amendment.

Mr. WAYNE found one difficulty in agreeing to the proposal of the Committee of Ways and Means. If this appropriation should be stricken out, there was no fund to which the individuals concerned could look for payment. They had rendered important services; they had been the agents in the highest act which one department of the Government could perform. He felt the force of the remarks of the gentleman from New York, (Mr. VERPLANCK,) and he was, to a certain extent, constrained to acquiesce in them; but the House must make some certain provision for men who had performed an important public service. Was there no other part of the bill to which an additional appropriation might be appended, by which the object could be secured? In the estimate for the contingent expenses of foreign intercourse, there was one item of $25,000. There was no proposal to strike that out; and, with a view to avoid debate, he would propose to amend the present amendment, by adding to that clause the words "and $15,000, to defray the contingent expense of foreign intercourse, heretofore incurred." The Chair decided that it was not in order to amend an amendment recommended by the Committee of Ways and Means.

Mr. INGERSOLL said, the gentleman could easily arrive at his object, by allowing a vote first to be taken on the present amendment. If these commissioners were to be paid at all, it should be out of the secret service fund. They had been appointed by the President, under that power of the Executive which gives him control over this fund, and, if so, they ought to be paid in that way. Mr. I. said he thought he perceived where the difficulty of the gentleman lay; the gentleman was apprehensive that the secret service fund had been exhausted. How that may be, Mr I. said, he

did not know; the gentleman no doubt knew better than he did. All that he could say was, that he thought the House ought to take a question on the point now before it, and thereby settle the question of the disputed power of the Executive.

Mr. STORRS, of New York, professed not to understand the debate. He did not know what gentlemen meant when they talked about the secret service fund being exhausted; he was completely in the dark. His colleague, from the Committee of Ways and Means, (Mr. VERPLANCK,) told the House that that committee had no information—another gentleman told them that the commissioners had been appointed by somebody, and that some provisions would be made for them by somebody, nobody knew who. For himself, he was not in the secrets of the cabinet; neither was the House in those secrets. If any public Ministers or chargés were to be provided for, let the Government send the House some information—let it send the treaties that had been made—let it tell the House who the commissioners are. For his own part, he did not find such persons enumerated among our diplomatic agents. The House was asked to act in the dark—somebody said they wanted money, but the Government had not condescended to tell the people of the United States what it was wanted for. The House had received no estimate, no report; the Government gave it no information but this —that it wanted money. The House had no facts to go upon, and he therefore hoped it would strike out the whole appropriation. The item of $25,000 for contingent expenses was intended for some other purpose, he did not know what; he hoped that would be stricken out, too, unless some further information was given. When he voted away money, he liked to do it understandingly. This sum was not for the ordinary contingent fund; if it was to be spent in presents to the Grand Turk, he should like to know the fact. He wished to know what he was doing. Were these $25,000 to be paid for gold snuff-boxes, diamond-headed daggers, horses, urns, or what was it for?

Mr. VERPLANCK asked his colleague, (Mr. STORRS,) whether the object of his inquiry was to obtain a list of the special contingent expenses of the Turkish legation. The present sum of $15,000 was proposed to be added to the sum of $25,000, provided for general contingent expenses. It was not usual to lay the particulars of foreign intercourse directly or indirectly before the House.

Mr. WAYNE asked gentlemen to state whether, if this article was stricken out, certain persons who had rendered public service would not be left to take their chance for being paid before next Congress; and he again asked whether there was not any other part of the bill on which an amendment could be grafted to secure the payment of agents, the value of whose public services had been acknowledged by the highest act which any Government could perform, viz., the ratification of the treaty which they had made.

Mr. MCDUFFIE observed that the question now was only as to one portion of the Senate's amendment—to the remainder the gentleman might add what he pleased.

Mr. BURGES observed that he could not see why persons who had been in the service of the country should not be paid. Why ought the appropriation to be stricken out? Did gentlemen intend that the agents of the Government should not be paid? Why not paid? Had they rendered no service? or was the service which they had rendered illegal? If they had not rendered any service, how came this clause in the bill, if the service had been rendered in an illegal or unconstitutional manner? Yet, so far as the country was bound in equity, why should not this House say, with the Senate, this does not justify us in withholding their pay? Why was the clause to be stricken out? Was any gentleman prepared to say that the President had the right, without consulting the Senate, to send abroad envoys to negotiate treaties, unless under the pressing exigencies of war? Can he consummate this act without consulting the Senate? Are we going to say that the President may not only fill a vacancy which occurs during the recess of the Senate, but that he may, without the Senate, originate any mission he pleases? Mr. B. said he had no doubt that the President could send out an agent for the purpose of examining the state of our relations with a foreign power, but this must be done secretly. Such agents never were accredited. The President might, in this manner, discover by what means our relations with a foreign power might be improved; but he might not appoint and send abroad high public envoys without first consulting the Senate. Mr. B. called upon all who heard him to say whether they were prepared to sanction such a power in the President of the United States. He trusted there were none. Did the House then intend to deprive these agents of their pay? Were they to be left to chance for their remuneration? Would the House indulge a disposition to employ services when they were needed, and then leave the servants to get their pay how they could? No, sir, said Mr. B.; the laborer's wages shall never sleep with me. I trust there is no man here who will vote to put these agents off to another Congress. Mr. Rhind was our consul to Odessa—he is known to be poor, and to possess nothing but what the Government gives him. He believed himself to be employed by a competent power—let us pay him for the services he performed—but let us, at the same time, take care to say that the power which employed him was not competent.

Mr. MCDUFFIE said that the Committee of Ways and Means had no intention of being understood as saying that these agents were not entitled to compensation for their services—the committee were unanimous in the contrary

opinion; but they had failed in accomplishing the object they had in view in recommending that this item be stricken out, which was to avoid debate. They desired to present the question in such a way as might conciliate all. He agreed that the simple striking out of this appropriation might, at first view, appear like the expression of an opinion that the individuals in question are not entitled to compensation; but such was not his opinion, nor that of the committee. They were, doubtless, entitled to compensation; and if the House could provide a fund out of which they might be paid, he should be glad. He had no wish to appear as if avoiding a vote on the principle contained in the Senate's amendment, but he did wish to avoid discussion. His opinion was, and he presumed there were few but would agree with him, that the President did not possess power to appoint Ministers plenipotentiary during a recess of the Senate, without nominating them to the Senate at its next succeeding session. But, if he was compelled to vote, he should not hesitate to say that he was unwilling to give a vote which might be construed into a censure of the President for what he had done. He was satisfied that the affair had happened through mere oversight, without any bad intent. The Senate had deemed it proper to vindicate its own power, by inserting the proviso. The House had no such object and no such obligation. The Senate had now done what they desired, and what they had a perfect right to do, and he hoped that further debate would be avoided.

Mr. ELLSWORTH observed that the House was now brought back to the question which had been stated by the gentleman from Rhode Island, (Mr. BURGES.) Certain public agents had performed important services; they had the fairest claim to be indemnified, and indemnified at this time; and, unless the House intended to compensate them in some other mode, they ought not to strike out this appropriation. If gentlemen did not like the proviso, let them strike it out; but the claim to compensation was certainly just and fair, and he could never consent to strike out a just appropriation because of the proviso that was attached to it.

Mr. DRAYTON said that he deprecated argument as much as any gentleman, and he should make none, unless he felt bound in duty to do so—he should not vote for striking out the clause, even if he thought that the appointment of the commissioners was illegal or unconstitutional. But he thought it was the exercise of a constitutional power, so far as any construction of the constitution could derive force from precedent. This was supported by numerous examples. He was not for striking out the proviso. He considered these agents as entitled to salaries. There was a fund out of which they might be paid, and there was not the smallest objection to the amendment.

Mr. MCDUFFIE, in reply to Mr. ELLSWORTH, observed, that if that gentleman's vote to strike out this clause depended on the House providing some other mode of compensation, his difficulty might easily be removed; for as soon as the House should vote to strike out this amendment, the gentleman from Georgia (Mr. WAYNE) would introduce another clause to cover the same object. The question was then taken on agreeing with the Committee of Ways and Means in their proposed amendment, going to strike out the amendment of the Senate, and it was carried in the affirmative.

Mr. STORRS, of New York, then moved to amend the amendment of the Senate, by striking out the $25,000 for the contingent expenses of the mission, and substituting $5,000. Mr. S. said that this $25,000, was intended to provide the tribute customarily given to the Grand Seignior, as he understood it. The old Governments of Europe may feel it their interest to procure, by these means, the friendship of the Sublime Porte. Turkey lays under tribute every nation with which she has intercourse, by her policy of requiring presents. He asked if it was proper for us, while keeping up friendly relations with Russia, without any Minister at St. Petersburg, to acquiesce in this course. He considered it unsound policy, after keeping ourselves, for half a century, without associating with the politicians at Constantinople, to send a chargé, when a consul would be as efficient to secure our interests. He stated that in sending a chargé we shall only make our country appear ridiculous, because, while the plenipotentiaries of other courts are admitted to the "brightness of the sublime presence," our chargé will be compelled to stand at the door among the servants and understrappers, and thus would the majesty of the American people be represented. He took a view of the accumulating expenses of the diplomatic corps since the present Administration came into power, and asked if this was a redemption of the pledges given by them before they were in office. We are called on to send a chargé to disgrace the American people before all Europe, and to pay $25,000 out of our Treasury for this privilege. There has been no information communicated to this House to call for this appropriation; and he would not consent to make any appropriation, without sufficient knowledge communicated in a proper manner. He had heard much of this treaty out of doors. He had heard that parts of it are very exceptionable; and it was rumored that it had not been ratified. We have been told by the President, in his opening Message, of a liberal treaty with Turkey. He did not understand the term. Was it not a reciprocal treaty? He had heard that Captain Biddle had written a long letter reprobating some parts of the treaty. He had also heard of Mr. Rhind and his acts. But he desired that the treaty should be communicated to the House before the appropriation is given. He thought it necessary that we should know for what we are called on to give this money.

Mr. CARSON said it always gave him pleasure to listen to the gentleman from New York, who

had just taken his seat, because of the ability which he always manifested. It was matter of deep regret that talents of so high an order should be enlisted on the wrong side. But, on the present occasion, Mr. C. was constrained to confess that he never heard the gentleman from New York make a speech on that floor which he himself seemed less to feel. The honorable gentleman had set out with telling the House that he was perfectly in the dark; that he could not at all understand the debate; but what a development had the House witnessed, and on what authority had it been made? The first thing the gentleman had discovered was the establishment of a new mission, which was to cost the country God knows how much. Each new Minister, it seemed, was to be furnished with new snuff-boxes and every subsequent Congress was to be bound to make new and further appropriations. The Ministers, too, were to make themselves ridiculous, by appearing in an inferior grade; and the gentleman's motion would go to render them still more ridiculous. The President had submitted the treaty to the Senate, and Mr. C. had understood that the treaty had been ratified with an amendment which went to strike out one offensive article. He was not sure that this was the case, but he had been so informed. In the discharge of his executive duty, the President had submitted to the Senate the propriety of establishing a diplomatic mission to the Ottoman Porte. The bill at first provided for the outfit of a full Minister, but the committee (consisting of the gentleman's friends) had reduced the Minister to a chargé, and had thereby afforded the gentleman an opportunity of holding up to the House a very entertaining spectacle, where our Minister appeared dancing attendance out of doors among servants and dragomen, but never admitted to the brightness of the Sultan's sublime presence. The gentleman appeared to have thought a good deal on the subject, and he was sorry he had not obtained any information as to the political consequences arising from this difference of grade in our Ministers. Probably another agent might be needed; but that was the business of the Senate, as they had the exclusive appointment of new Ministers. The gentleman from New York, if he recollected right, had advocated the Panama mission. Did the gentleman at that time ask for the instructions given to our Minister? Far from it. All then was to be confidence in the Executive. The House was to repose an official confidence in the Executive. Why did not the House now hear from him the same language? The gentleman had professed great ignorance; but, whatever might be his disclaimers, the House all knew full well that the gentleman was acquainted with the manner in which Turkish treaties were usually negotiated. He knew perfectly well that presents were always made by every nation who wished to maintain diplomatic relations, or obtain commercial advantages, or hold any intercourse with the Turkish court. The commercial benefits to be obtained by the present arrangement the gentleman had taken great care to throw into the shade; yet, if any commercial advantage was to be derived to the country, what city or what State of the Union was so likely to share in it as that from which the gentleman came? The city of New York, to which he understood the gentleman had lately removed his residence, being the great commercial emporium of the country, had the deepest interest in a question of this kind. The gentleman had said a great deal about paying tribute, and presenting diamond snuff-boxes to an infidel power. This language might, perhaps, take with the Dutch of New York, (to use a phrase which he had heard the gentleman employ,) and it showed the gentleman's great deference for the sense and information of his constituents. But, if the gentleman could impose upon his own constituents, it did not follow that he could, with equal ease, deceive the American people. They possess too much intelligence for such an operation. Mr. C. said that Andrew Jackson had discharged his duty. The House could not yet have the treaty laid before it, but it opened a prospect of great pecuniary advantage to the nation, from a participation in the commerce of the Black Sea. All this the gentleman well understood; and if, with the full understanding of it, he chose to take the responsibility of defeating such a measure, on him, and on those who acted with him, let it rest, and not upon Andrew Jackson, or the Senate of the United States.

Mr. ARCHER said that he would confine himself to two or three remarks, by way of explanation. The gentleman (Mr. STORRS) had commenced by supposing that the object of this treaty was to put the country in a degrading attitude—to grant a tribute, to buy a treaty of the Sublime Porte. But such had been no part of the object. The treaty was made. It had been ratified, with the exception of one article. So far from soliciting or begging a treaty, the treaty had been made and ratified, and the object was to open commercial connections between the United States and some of the richest countries in the old world; and the present appropriation was asked in order that our country might realize these benefits. Our interest in those seas was great and extended, and the question was, whether we ought not to have commercial agents to supervise the interests of the United States. But gentlemen ask, why not intrust this duty to our consuls? If the bill had done so, the expense would have been the same. The Government now pays our consul at Algiers $4,000; and the salary of a chargé was but $4,500. Nothing would be gained, therefore, by substituting the consul; the only difference would be, that the latter appointment would not be productive of such good effects. But to show that the gentleman would be satisfied with no conduct of the Administration, and that he held it a duty to

find fault, the gentleman had told the House, that, if we were to have any mission to Turkey, it ought to be an embassy extraordinary. That was what the Executive had asked for, and what the Senate had refused. If the present plan was wrong, the fault was not with the President.

If it was good that we should hold commercial relations with the boundless territories of the Turk, (relations which had heretofore extended but a short distance around Smyrna,) was the country to refuse this advantage, because the gentleman from New York thought it degrading to make presents to the Grand Seignior, to the amount of $25,000? If we held such an opinion, we should be the only power who thought so; all other nations have acted otherwise. If the country was to have political and commercial relations with the Porte at all, it could no more have them without presents than without Ministers. No Minister would have been received, or permitted to open his credentials, till he had offered the customary presents. This Government once received a mission from a Turkish power, and we paid the ambassador a regular stipend every week, although he came only to make an apology for a threat which had been uttered by his country against ours. We paid all the expenses of his embassy, and allowed him $200 per week during his stay. Was that expenditure considered extravagant then? Was the country, for such a reason, to refuse the apology of a foreign power, and thereby to avert the necessity of a war? Mr. Jefferson was wiser than that. The long and the short of this matter was, that here were presented to us real and great commercial advantages. Extensive regions, among some of the richest on the globe, were about to be opened to the United States. We were to hold commercial relations with all the countries around the Black Sea; and we were to have this advantage in the most economical form—at the expense of maintaining a single chargé. As to the other items, they were merely the necessary appendages of such a mission. A dragoman and presents were matters of course at the court of Turkey.

Mr. STORRS replied; when

The question was taken on the amendment of Mr. STORRS, and decided in the negative by a large majority.

Mr. WAYNE then moved the amendment he had before proposed, viz: to insert after the item of $25,000, the following:

"And $15,000 for defraying the expenses of foreign intercourse heretofore incurred."

The amendment was adopted—yeas 70, nays 65.

Mr. WILLIAMS now moved to insert the proviso, but the motion was rejected—yeas 62, nays 100.

Mr. DRAYTON moved an item of $1,500 for the salary of a student of languages, but the amendment was rejected.

The amendment of the Senate, as amended on motion of Mr. WAYNE, was then agreed to, and the debate closed. The committee then rose, and reported the amendments to the House.

Mr. VANCE moved for a division of the question on the amendment which had been so long debated in committee.

The question was accordingly divided, and being put on the appropriating clause, it passed in the affirmative.

The question then recurring *on striking out the proviso of the Senate*,

Mr. MERCER failed in an attempt to modify it.

And the yeas and nays, having been demanded by Mr. VANCE, and ordered by the House, were taken, and stood as follows:

YEAS.—Messrs. Alexander, Alston, Anderson, Angel, Archer, Barringer, James Blair, Bockee, Boon, Borst, Brodhead, Brown, Cambreleng, Carson, Claiborne, Clay, Connor, Crawford, Crocheron, Daniel, Davenport, Deberry, Denny, Drayton, Dudley, Earll, Findlay, Ford, Gilmore, Gordon, Hall, Halsey, Harvey, Haynes, Holland, Hoffman, Howard, Hubbard, William W. Irvin, Thomas Irwin, Jarvis, Richard M. Johnson, Cave Johnson, Kennon, Perkins King, Lamar, Lea, Leavitt, Lent, Lewis, Loyall, Lumpkin, Magee, Thomas Maxwell, McCreery, McCoy, McDuffie, McIntire, Miller, Mitchell, Muhlenberg, Patton, Pearce, Pettis, Polk, Potter, Sanford, Scott, Wm. B. Shepard, Aug. H. Shepperd, Shields, Smith, Speight, Ambrose Spencer, Richard Spencer, Stephens, Sutherland, Taylor, John Thompson, Trezvant, Tucker, Wayne, Wilde—83.

NAYS.—Messrs. Allen, Armstrong, Arnold, Barnwell, Baylor, Beekman, Butman, Campbell, Childs, Chilton, Coke, Cooper, Coulter, Cowles, Craig, Crane, Crockett, Creighton, Desha, Draper, Eager, Ellsworth, George Evans, Horace Everett, Finch, Gaither, Gurley, Hawkins, Hodges, Hughes, Hunt, Huntington, Johns, Lecompte, Lyon, Martindale, Lewis Maxwell, Mercer, Nuckolls, Overton, Pierson, Reed, Rencher, Richardson, Russell, Stanberry, Swift, Taliaferro, Test, Vance, Varnum, Vinton, Washington, Whittlesey, Edward D. White, Williams, Yancey—57.

So the House agreed with the Committee of the Whole in striking out the proviso which the Senate had inserted, and which is in the words following:

"*Provided always*, That nothing in this act contained shall be construed as sanctioning, or in any way approving, the appointment of these persons, by the President alone, during the recess of the Senate, and without their advice and consent, as commissioners to negotiate a treaty with the Ottoman Porte."

WEDNESDAY, March 2.

Trade to Danish Islands.

Mr. CAMBRELENG, from the Committee on Commerce, to which was referred the Message from the President of the United States, transmitting the correspondence between the Danish Minister and the Secretary of State, concerning the commerce between the United States and the island of St. Croix, made the

following report; which was read, and laid on the table:

"The Committee on Commerce, to which was referred the correspondence between the Danish Minister and the Secretary of State, concerning the commerce of the United States with the island of St. Croix, make the following report:

"The Danish Minister represents that the produce and manufactures of the United States have been uniformly admitted into the island of St. Croix without duty, or at very moderate rates, and that the vessels of other countries have been excluded. The navigation of the United States has been permitted by Denmark to enjoy the almost entire monopoly of her colonial commerce. While that Government has extended to us these advantages, the Danish Minister complains that we have augmented our duties upon the produce of the island of St. Croix, so much as to render it impossible for the planter to pay for his supplies; and that unless some change should be made, the commerce of that island must, of necessity, be driven into some other channel.

"The committee have also before them a memorial of American citizens, interested directly and indirectly in the plantations of St. Croix, sustaining the representation of the Danish Minister. To revive this branch of commerce, the Minister proposed certain commercial arrangements, which were declined by the President, as they were founded upon concessions of an exclusive character. At the request of the Minister, the correspondence was referred to Congress:

"The following proposals were offered by Denmark:

1. "That, in the intercourse of the island of St. Croix with foreign countries beyond the West Indian seas, no foreign ships but those of the United States shall be admitted to an entry at the custom-houses of the island, nor suffered to export produce thence; (the whole trade of the island will thus be reserved to the Danish and American flags.)

2. "That Indian corn and Indian corn meal, imported into the island of St. Croix from the United States, shall be subject to no duty whatever; (this article amounts to nearly twenty thousand puncheons annually;) and

3. "That all other articles, without any limitation whatever, shall be allowed to be imported into the island of St. Croix from the United States, subject to such duties only as by this arrangement shall be agreed upon, and which shall not exceed five per cent. ad valorem on certain articles, considered necessaries, or of general use and consumption, as flour, salted provisions of any kind, butter, cheese, tallow, candles, fish oil, oil of turpentine, live stock, and horses, staves, hoops, headings, shingles, boards and deals of all descriptions, and all sorts of manufactured goods of the coarser kind, whether made from wood, metals, wool, or cotton, and not exceeding ten per cent. ad valorem on all other articles coming more properly under the denomination of luxuries, as furnitures, carriages, gigs, &c.

"The concessions were, however, proposed only upon condition that the United States would also concede exclusive advantages to the commerce and navigation of St. Croix, including a provision that the produce of that island should be admitted into this country at lower rates of duty than might be levied upon similar productions of other countries.

"The friendly policy of Denmark, and the recent manifestation of her justice towards this country, should recommend any proposition of hers to our most favorable consideration. But with every disposition to receive these proposals in a spirit of mutual liberality, the committee discover too many and substantial objections to any arrangement of the character proposed. It has always been our wise policy to offer equal commercial advantages to all nations, and to entangle ourselves with no embarrassing arrangements with any country; granting privileges denied to other countries, and establishing discriminating duties in favor of the productions of particular nations, which are not offered to all. The committee deem it impolitic to enter into any exclusive arrangements, even were they not restrained from recommending any such measure, by our obligations to other nations. Our duties on the productions of St. Croix are undoubtedly too high to admit of a mutually profitable exchange in our commerce with that island. We may, however, indulge the hope that some modification of our imposts may follow the redemption of our public debt, which will be more favorable to the productions of an island which, from its vicinity to our continent, may be almost considered a commercial appendage of the United States. But whatever measure we may adopt, should be of a general character, operating with a just equality on our commerce with all nations. The committee, therefore, ask to be discharged from the further consideration of the correspondence."

THURSDAY, March 3.

Thanks to the Speaker.

Mr. CARSON rose (Mr. MCDUFFIE temporarily occupying the chair) and said, the House of Representatives of the twenty-first Congress had met for the last time; and when we separate to-day, said he, many of us will have parted to meet no more forever. My heart admonishes me that this is a fit occasion for us to offer up all our animosities upon the altar of peace, kindness, and good will. In rising, sir, to perform a last act of legislative duty upon this occasion, I do it the more willingly, and with the more pleasure, because, while it is an act of justice, it is an act of friendship.

I ask leave to introduce the following resolution, which I hope will be unanimously received and adopted:

Resolved, That the thanks of this House be presented to the Honorable Andrew Stevenson, Speaker, for the dignity, impartiality, promptitude, and ability, with which he has discharged the duties of the chair during the present session.

Raising of Silk.

Mr. SPENCER, from the Committee on Agriculture, to which was referred a letter to the Speaker from Count Fontaniellere, of Paris, accompanied with a translation of a treatise by Count Dandalo, on the art of cultivating the mulberry, by Count Vevu, and also observations by Count Fontaniellere on two different varieties of mulberries, by leave of the House reported the following resolution:

Resolved, That the Speaker be requested to answer, in behalf of the House, the aforesaid letter, and to express the acknowledgments of the House for this manifestation of the interest taken by distinguished foreigners in the welfare and prosperity of the United States, and that the said books be placed in the public library.

The resolution was read and agreed to.

Suppression of the Slave Trade.

Mr. MERCER moved to suspend the rule, to enable him to submit the following resolution:

Resolved, That the President of the United States be requested to renew and to prosecute from time to time such negotiations with the several maritime powers of Europe and America, as he may deem expedient, for the effectual abolition of the African slave trade, and its ultimate denunciation, as piracy, under the law of nations, by the consent of the civilized world.

And on the question shall the rule be suspended,

It passed in the affirmative—yeas 108, nays 36.

The said resolution was then received; and after debate,

The previous question was moved by Mr. POLK; and being demanded by a majority of the members present, was put, and passed in the affirmative.

The main question was then put, viz.: "Will the House agree to the said resolution?"

And passed in the affirmative, as follows:

YEAS.—Messrs. Anderson, Angel, Arnold, Bailey, Barber, Barringer, Bates, Beekman, Bockee, Borst, Brodhead, Burges, Butman, Cahoon, Campbell, Childs, Condict, Cooper, Coulter, Cowles, Craig, Crane, Crawford, Creighton, Crocheron, Crowninshield, Davenport, John Davis, Denny, De Witt, Dickinson, Draper, Drayton, Dwight, Eager, Earll, Ellsworth, George Evans, Edward Everett, Horace Everett, Findlay, Finch, Fry, Gilmore, Grennell, Halsey, Hammons, Harvey, Hawkins, Hemphill, Hodges, Holland, Hoffman, Howard, Hubbard, Hunt, Huntington, Ihrie, Thomas Irwin, Jarvis, Johns, R. M. Johnson, Kendall, Kincaid, Perkins King, Adam King, Leavitt, Lecompte, Leiper, Letcher, Lyon, Magee, Martindale, McCreery, McDuffie, Mercer, Miller, Mitchell, Muhlenberg, Pearce, Pettis, Ramsey, Reed, Richardson, Rose, Scott, W. B. Shepard, A. H. Shepperd, Shields, Semmes, Sill, Smith, Ambrose Spencer, Richard Spencer, Stanberry, Sterigere, William L. Storrs, Strong, Sutherland, Swift, Taliaferro, Taylor, Test, John Thomson, Tracy, Tucker, Vance, Varnum, Verplanck, Vinton, Washington, Weeks, Whittlesey, C. P. White, Edward D. White, Williams, Wilson, Young—118.

NAYS.—Messrs. Alexander, Barbour, Barnwell, James Blair, Bouldin, Carson, Daniel, W. R. Davis, Desha, Dudley, Foster, Gaither, Hall, Haynes, Hinds, C. Johnson, Lamar, Lea, Loyall, Nuckolls, Overton, Patton, Polk, Potter, Rencher, Roane, Speight, Wiley Thompson, Trezvant, Wickliffe, Wilde, Yancey—32.

So the resolve was agreed to.

On motion of Mr. DWIGHT,

Resolved, That a committee be appointed on the part of this House, to be joined by such committee as may be appointed by the Senate, to wait on the President of the United States, and to notify him that, unless he may have further communications to make, the two Houses of Congress, having completed the business before them, are ready to close the present session by an adjournment.

Mr. DWIGHT and Mr. ROANE were appointed of the said committee on the part of this House.

Soon after,

Mr. DWIGHT, from the said joint committee, reported that the committee had, according to order, waited on the President, and made the communication to him; and that the President answered that he had no further communications to make to either House of Congress.

It was then

Ordered, That a message be sent to the Senate to notify that body that this House, having completed the business before it, is now ready to close the present session by an adjournment, and that the Clerk do go with said message.

The Clerk having delivered said message, and being returned, a message was received from the Senate by Mr. Lowrie, their Secretary, notifying the House that the Senate, having completed the legislative business before it, is now ready to close the present session of Congress by an adjournment.

Thereupon,

The Speaker rose from his chair, and addressed the House as follows:

GENTLEMEN: I receive with sentiments of profound respect and grateful feeling the renewed expression of your approbation and confidence in my administration of the arduous duties of this high office. The character and power of this House; the rank which it holds in the eyes of the world; the deep and abiding confidence of the nation in the intelligence, virtue, and patriotism of its representatives, must ever render the approbation or censure of this House a matter of no ordinary importance to those who fill high places of public trust and confidence. This station, justly esteemed among the first in distinction and honor, has always been regarded not only as one of elevated character, but of severe responsibility and labor, and of extreme delicacy. In discharging its arduous and multifarious duties, no man can hope to free himself from error, or to give unqualified or universal satisfaction. In times, even, of profound tranquillity and repose, to please every one cannot, and ought not, to be expected. Amid the storms of political and party excitements, it would be idle and vain to expect it. My path here for the last four years has not been strewed with roses. I have had, as you well know, my full share of responsibility, embarrassment, and toil. I can say, however, with truth, that I have endeavored to meet your expectations by a zealous devotion of my time, and even my health, to your service, and by a faithful and independent discharge of my public duty. This, gentlemen, was all that I promised when I received this high appointment at your hands; and in laying it down I feel a proud consciousness that I have redeemed my pledge; and if

the trust has not been ably, it has, at least, been honestly discharged. During the entire period of my service, and under all the agitations of the times, it has been my peculiar good fortune and pleasure to receive, in an almost unexampled manner, the kindness and support of the members of this House; and in proof of it I may be permitted to remark, I hope without vanity, that in all the numerous and important decisions which I have been called upon to pronounce from this chair, but one has ever been reversed by the judgment of the House, and that under circumstances which can cause me no regret. Can I, then, feel otherwise than gratified and flattered, cheered and consoled, by this renewed and distinguished evidence of your confidence and favor? I receive it, gentlemen, in the spirit in which it has been offered; I cherish it in my heart. It is the highest and the only reward that I either sought or expected; and I shall cherish it through life with feelings of the deepest respect, and the most affectionate gratitude. God grant that you may long live to serve and benefit your country, and enjoy its undiminished confidence; and, in bidding you an affectionate, and, perhaps, last farewell, accept, I pray you, my cordial and best wishes for your individual health, prosperity, and happiness.

He then declared the House to be adjourned *sine die*.

TWENTY-SECOND CONGRESS.—FIRST SESSION.

BEGUN AT THE CITY OF WASHINGTON, DECEMBER 5, 1831.

PROCEEDINGS IN THE SENATE.*

MONDAY, December 5, 1831.

Mr. SMITH, of Maryland, President *pro tem.* of the Senate, in the absence of the Vice President, took the chair at twelve o'clock; and, on calling the House to order, it appeared that thirty-four members were present.

Mr. DUDLEY, of New York, stated that, by some omission or inadvertence, the credentials of his colleague, the honorable WM. MARCY, had not been forwarded. He could, however, testify that Mr. MARCY was duly elected Senator for that State; and as similar instances of such omission were on record, he hoped the present would not operate as an obstacle to his admission, and moved that Mr. MARCY be permitted to take his seat; which motion was agreed to, *nem. con.*

Mr. BELL, of New Hampshire, moved that the honorable JOSIAH S. JOHNSTON, Senator elect for the State of Louisiana, be permitted to take his seat. The credentials of Mr. J. had not, Mr. B. stated, yet arrived, but his election was a matter of such public notoriety, as to induce him to hope that the Senate would not hesitate to admit him. In which motion, after a brief suggestion from Mr. HAYNE, on the propriety of having these credentials filed, the Senate concurred.

The usual message was then sent to the House of Representatives, notifying that a quorum of the Senate had assembled.

Mr. KING and Mr. FOOT were appointed a committee to join the committee of the House of Representatives to inform the President of the United States that the two Houses had organized, and were ready to proceed to business.

The Senate then adjourned to twelve o'clock to-morrow.

TUESDAY, December 6.

Mr. KING, from the joint committee appointed to wait on the President of the United States, reported that they had performed the duty enjoined them, and had received an intimation that the President would, at twelve o'clock this day, make a written communication to both Houses of Congress.

The communication promised by the President was received by the hands of Mr. DONELSON, his private Secretary; which was read as follows:

Follow-citizens of the Senate and House of Representatives:

The representation of the people has been renewed for the twenty-second time since the constitution they formed has been in force. For near half a century the Chief Magistrates who have been successively chosen, have made their annual communications of the state of the nation to its representatives. Generally, these communications have

* LIST OF MEMBERS OF THE SENATE.

Maine.—John Holmes, Peleg Sprague.
New Hampshire.—Samuel Bell, Isaac Hill.
Massachusetts.—Daniel Webster, Nathaniel Silsbee.
Rhode Island.—N. R. Knight, Asher Robbins.
Connecticut.—Samuel A. Foot, Gideon Tomlinson.
Vermont.—Horatio Seymour, Samuel Prentiss.
New York.—Charles E. Dudley, William Marcy.
New Jersey.—M. Dickerson, Theodore Frelinghuysen.
Pennsylvania.—Geo. M. Dallas, Wm. Wilkins.
Delaware.—J. M. Clayton, Arnold Naudain.
Maryland.—E. F. Chambers, Samuel Smith.
Virginia.—Littleton W. Tazewell, John Tyler.
North Carolina.—B. Brown, W. P. Mangum.
South Carolina.—R. Y. Hayne, S. D. Miller.
Georgia.—George M. Troup, John Forsyth.
Kentucky.—George M. Bibb, Henry Clay.
Tennessee.—Felix Grundy, Hugh L. White.
Ohio.—Benjamin Ruggles, Thomas Ewing.
Louisiana.—J. S. Johnston, Geo. A. Waggaman.
Indiana.—William Hendricks, Robert Hanna.
Mississippi.—Powhattan Ellis, Geo. Poindexter.
Illinois.—Elias K. Kane, John M. Robinson.
Alabama.—William R. King, Gabriel Moore.
Missouri.—Thomas H. Benton, Alex. Buckner.

been of the most gratifying nature, testifying an advance in all the improvements of social, and all the securities of political life. But frequently and justly as you have been called on to be grateful for the bounties of Providence, at few periods have they been more abundantly or extensively bestowed than at the present—rarely, if ever, have we had greater reason to congratulate each other on the continued and increasing prosperity of our beloved country.

Agriculture, the first and most important occupation of man, has compensated the labors of the husbandman with plentiful crops of all the varied products of our extensive country. Manufactures have been established, in which the funds of the capitalist find a profitable investment, and which give employment and subsistence to a numerous and increasing body of industrious and dexterous mechanics. The laborer is rewarded by high wages, in the construction of works of internal improvement, which are extending with unprecedented rapidity. Science is steadily penetrating the recesses of nature, and disclosing her secrets, while the ingenuity of free minds is subjecting the elements to the power of man, and making each new conquest auxiliary to his comfort. By our mails, whose speed is regularly increased, and whose routes are every year extended, the communication of public intelligence and private business is rendered frequent and safe—the intercourse between distant cities, which it formerly required weeks to accomplish, is now effected in a few days—and, in the construction of railroads, and the application of steam power, we have a reasonable prospect that the extreme parts of our country will be so much approximated, and those most isolated by the obstacles of nature rendered so accessible, as to remove an apprehension, sometimes entertained, that the great extent of the Union would endanger its permanent existence.

If, from the satisfactory view of our agriculture, manufactures, and internal improvements, we turn to the state of our navigation and trade with foreign nations, and between the States, we shall scarcely find less cause for gratulation. A beneficent Providence has provided, for their exercise and encouragement, an extensive coast indented by capacious bays, noble rivers, inland seas, with a country productive of every material for shipbuilding, and every commodity for gainful commerce, and filled with a population active, intelligent, well informed, and fearless of danger. These advantages are not neglected; and an impulse has lately been given to commercial enterprise, which fills our shipyards with new constructions, encourages all the arts and branches of industry connected with them, crowds the wharves of our cities with vessels, and covers the most distant seas with our canvas.

Let us be grateful for these blessings to the beneficent Being who has conferred them, and who suffers us to indulge a reasonable hope of their continuance and extension, while we neglect not the means by which they may be preserved. If we may dare to judge of His future designs by the manner in which His past favors have been bestowed, He has made our national prosperity to depend on the preservation of our liberties—our national force on our Federal Union—and our individual happiness on the maintenance of our State rights and wise institutions. If we are prosperous at home, and respected abroad, it is because we are free, united, industrious, and obedient to the laws. While we continue so, we shall, by the blessing of Heaven, go on in the happy career we have begun, and which has brought us, in the short period of our political existence, from a population of three to thirteen millions—from thirteen separate colonies to twenty-four United States—from weakness to strength—from a rank scarcely marked in the scale of nations to a high place in their respect.

This last advantage is one that has resulted, in a great degree, from the principles which have guided our intercourse with Foreign Powers since we have assumed an equal station among them; and hence the annual account which the Executive renders to the country, of the manner in which that branch of his duties has been fulfilled, proves instructive and salutary.

The pacific and wise policy of our Government kept us in a state of neutrality during the wars that have, at different periods since our political existence, been carried on by other powers; but this policy, while it gave activity and extent to our commerce, exposed it in the same proportion to injuries from the belligerent nations. Hence have arisen claims of indemnity for those injuries. England, France, Spain, Holland, Sweden, Denmark, Naples, and lately Portugal, had all, in a greater or less degree, infringed our neutral rights. Demands for reparation were made upon all. They have had in all, and continue to have in some cases, a leading influence on the nature of our relations with the powers on whom they were made.

Of the claims upon England it is unnecessary to speak, further than to say that the state of things to which their prosecution and denial gave rise, has been succeeded by arrangements, productive of mutual good feeling and amicable relations between the two countries, which it is hoped will not be interrupted. One of these arrangements is that relating to the colonial trade, which was communicated to Congress at the last session; and, although the short period during which it has been in force will not enable me to form an accurate judgment of its operation, there is every reason to believe that it will prove highly beneficial. The trade thereby authorized has employed, to the 30th September last, upwards of 30,000 tons of American, and 15,000 tons of foreign shipping in the outward voyages; and, in the inward, nearly an equal amount of American, and 20,000 only of foreign tonnage. Advantages, too, have resulted to our agricultural interests from the state of the trade between Canada and our territories and States bordering on the St. Lawrence and the lakes, which may prove more than equivalent to the loss sustained by the discrimination made to favor the trade of the Northern colonies with the West Indies.

After our transition from the state of colonies to that of an independent nation, many points were found necessary to be settled between us and Great Britain. Among them was the demarcation of boundaries, not described with sufficient precision in the treaty of peace. Some of the lines that divide the States and territories of the United States from the British provinces, have been definitively fixed. That, however, which separates us from the provinces of Canada and New Brunswick to the North and the East, was still in dispute

when I came into office. But I found arrangements made for its settlement, over which I had no control. The commissioners who had been appointed under the provisions of the treaty of Ghent, having been unable to agree, a convention was made with Great Britain by my immediate predecessor in office, with the advice and consent of the Senate, by which it was agreed "that the points of difference which have arisen in the settlement of the boundary line between the American and British dominions, as described in the fifth article of the treaty of Ghent, shall be referred, as therein provided, to some friendly sovereign or State, who shall be invited to investigate, and make a decision upon such points of difference:" and the King of the Netherlands having, by the late President and his Britannic Majesty, been designated as such friendly sovereign, it became my duty to carry, with good faith, the agreement, so made, into full effect. To this end I caused all the measures to be taken which were necessary to a full exposition of our case to the sovereign arbiter; and nominated as Minister plenipotentiary to his court, a distinguished citizen of the State most interested in the question, and who had been one of the agents previously employed for settling the controversy. On the 10th day of January last, his Majesty the King of the Netherlands, delivered to the plenipotentiaries of the United States, and of Great Britain, his written opinion on the case referred to him. The papers in relation to the subject will be communicated, by a special message, to the proper branch of the Government, with the perfect confidence that its wisdom will adopt such measures as will secure an amicable settlement of the controversy, without infringing any constitutional right of the States immediately interested.

It affords me satisfaction to inform you that suggestions, made by my direction to the chargé d'affaires of his Britannic Majesty to this Government, have had their desired effect in producing the release of certain American citizens who were imprisoned for setting up the authority of the State of Maine at a place in the disputed territory under the actual jurisdiction of his Britannic Majesty. From this, and the assurances I have received of the desire of the local authorities to avoid any cause of collision, I have the best hopes that a good understanding will be kept up until it is confirmed by the final disposition of the subject.

The amicable relations which now subsist between the United States and Great Britain, the increasing intercourse between their citizens, and the rapid obliteration of unfriendly prejudices to which former events naturally gave rise, concurred to present this as a fit period for renewing our endeavors to provide against the recurrence of causes of irritation, which, in the event of war between Great Britain and any other power, would inevitably endanger our peace. Animated by the sincerest desire to avoid such a state of things, and peacefully to secure, under all possible circumstances, the rights and honor of the country, I have given such instructions to the Minister lately sent to the court of London, as will evince that desire; and, if met by a correspondent disposition, which we cannot doubt, will put an end to causes of collision, which, without advantage to either, tend to estrange from each other two nations who have every motive to preserve, not only peace, but an intercourse of the most amicable nature.

In my Message at the opening of the last session of Congress, I expressed a confident hope that the justice of our claims upon France, urged as they were with perseverance and signal ability by our Minister there, would finally be acknowledged. This hope has been realized. A treaty has been signed, which will immediately be laid before the Senate for its approbation; and which, containing stipulations that require legislative acts, must have the concurrence of both Houses before it can be carried into effect. By it, the French Government engage to pay a sum which, if not quite equal to that which may be found due to our citizens, will yet, it is believed, under all circumstances be deemed satisfactory by those interested. The offer of a gross sum, instead of the satisfaction of each individual claim, was accepted, because the only alternatives were a rigorous exaction of the whole amount stated to be due on each claim, which might, in some instances, be exaggerated by design, in others overrated through error, and which, therefore, it would have been both ungracious and unjust to have insisted on, or a settlement by a mixed commission, to which the French negotiators were very averse, and which experience in other cases had shown to be dilatory, and often wholly inadequate to the end. A comparatively small sum is stipulated on our part, to go to the extinction of all claims by French citizens on our Government; and a reduction of duties on our cotton and their wines has been agreed on, as a consideration for the renunciation of an important claim for commercial privileges, under the construction they gave to the treaty for the cession of Louisiana.

Should this treaty receive the proper sanction, a source of irritation will be stopped, that has, for so many years, in some degree alienated from each other two nations who, from interest as well as the remembrance of early associations, ought to cherish the most friendly relations—an encouragement will be given for perseverance in the demands of justice, by this new proof, that, if steadily pursued, they will be listened to—and admonition will be offered to those powers, if any, which may be inclined to evade them, that they will never be abandoned. Above all, a just confidence will be inspired in our fellow-citizens, that their Government will exert all the powers with which they have invested it, in support of their just claims upon foreign nations; at the same time that the frank acknowledgment and provision for the payment of those which were addressed to our equity, although unsupported by legal proof, afford a practical illustration of our submission to the divine rule of doing to others what we desire they should do unto us.

Sweden and Denmark having made compensation for the irregularities committed by their vessels, or in their ports, to the perfect satisfaction of the parties concerned, and having renewed the treaties of commerce entered into with them, our political and commercial relations with those powers continue to be on the most friendly footing.

With Spain, our differences up to the 22d of February, 1819, were settled by the treaty of Washington of that date; but, at a subsequent period, our commerce with the States formerly colonies of Spain, on the continent of America, was annoyed and frequently interrupted by her public and private armed ships. They captured many of our vessels prosecuting a lawful commerce, and sold them and their cargoes; and at one time, to our demands for restoration and indemnity, opposed

the allegation, that they were taken in the violation of a blockade of all the ports of those States. This blockade was declaratory only, and the inadequacy of the force to maintain it was so manifest, that this allegation was varied to a charge of trade in contraband of war. This, in its turn, was also found untenable; and the Minister whom I sent with instructions to press for the reparation that was due to our injured fellow-citizens, has transmitted an answer to his demand, by which the captures are declared to have been legal, and are justified because the independence of the States of America never having been acknowledged by Spain, she had a right to prohibit trade with them under her old colonial laws. This ground of defence was contradictory, not only to those which had been formerly alleged, but to the uniform practice and established laws of nations; and had been abandoned by Spain herself in the convention which granted indemnity to British subjects for captures made at the same time, under the same circumstances, and for the same allegations with those of which we complain.

I however indulge the hope that further reflection will lead to other views, and feel confident that when his Catholic Majesty shall be convinced of the justice of the claim, his desire to preserve friendly relations between the two countries, which it is my earnest endeavor to maintain, will induce him to accede to our demand. I have therefore despatched a special messenger with instructions to our Minister to bring the case once more to his consideration; to the end that if, which I cannot bring myself to believe, the same decision, that cannot but be deemed an unfriendly denial of justice, should be persisted in, the matter may, before your adjournment, be laid before you, the constitutional judges of what is proper to be done when negotiation for redress of injury fails.

The conclusion of a treaty for indemnity with France seemed to present a favorable opportunity to renew our claims of a similar nature on other powers, and particularly in the case of those upon Naples, more especially as, in the course of former negotiations with that power, our failure to induce France to render us justice was used as an argument against us. The desires of the merchants who were the principal sufferers, have therefore been acceded to, and a mission has been instituted for the special purpose of obtaining for them a reparation already too long delayed. This measure having been resolved on, it was put in execution without waiting for the meeting of Congress, because the state of Europe created an apprehension of events that might have rendered our application ineffectual.

Our demands upon the Government of the Two Sicilies are of a peculiar nature. The injuries on which they are founded are not denied, nor are the atrocity and perfidy under which those injuries were perpetrated attempted to be extenuated. The sole ground on which indemnity has been refused, is the alleged illegality of the tenure by which the monarch who made the seizures held his crown. This defence, always unfounded in any principle of the law of nations—now universally abandoned, even by those powers upon whom the responsibility for acts of past rulers bore the most heavily, will unquestionably be given up by his Sicilian Majesty, whose counsels will receive an impulse from that high sense of honor and regard to justice which are said to characterize him; and I feel the fullest confidence that the talents of the citizen commissioned for that purpose will place before him the just claims of our injured citizens in such a light as will enable me, before your adjournment, to announce that they have been adjusted and secured. Precise instructions, to the effect of bringing the negotiation to a speedy issue, have been given, and will be obeyed.

In the late blockade of Terceira, some of the Portuguese fleet captured several of our vessels, and committed other excesses, for which reparation was demanded; and I was on the point of despatching an armed force, to prevent any recurrence of a similar violence, and protect our citizens in the prosecution of their lawful commerce, when official assurances, on which I relied, made the sailing of the ships unnecessary. Since that period, frequent promises have been made that full indemnity shall be given for the injuries inflicted and the losses sustained. In the performance, there has been some, perhaps unavoidable, delay; but I have the fullest confidence that my earnest desire that this business may at once be closed, which our Minister has been instructed strongly to express, will very soon be gratified. I have the better ground for this hope, from the evidence of a friendly disposition which that Government has shown by an actual reduction in the duty on rice, the produce of our Southern States, authorizing the anticipation that this important article of our export will soon be admitted on the same footing with that produced by the most favored nation.

With the other powers of Europe, we have fortunately had no cause of discussions for the redress of injuries. With the Empire of the Russias, our political connection is of the most friendly, and our commercial of the most liberal kind. We enjoy the advantages of navigation and trade, given to the most favored nation; but it has not yet suited their policy, or perhaps has not been found convenient from other considerations, to give stability and reciprocity to those privileges, by a commercial treaty. The ill health of the Minister last year charged with making a proposition for that arrangement, did not permit him to remain at St. Petersburg; and the attention of that Government, during the whole of the period since his departure, having been occupied by the war in which it was engaged, we have been assured that nothing could have been effected by his presence. A Minister will soon be nominated, as well to effect this important object, as to keep up the relations of amity and good understanding of which we have received so many assurances and proofs from his Imperial Majesty, and the Emperor his predecessor.

The treaty with Austria is opening to us an important trade with the hereditary dominions of the Emperor, the value of which has been hitherto little known, and of course not sufficiently appreciated. While our commerce finds an entrance into the south of Germany by means of this treaty, those we have formed with the Hanseatic towns and Prussia, and others now in negotiation, will open that vast country to the enterprising spirit of our merchants on the North, a country abounding in all the materials for a mutually beneficial commerce, filled with enlightened and industrious inhabitants, holding an important place in the politics of Europe, and to which we owe so many valuable citizens. The ratification of the treaty with the Porte

was sent to be exchanged by the gentleman appointed our chargé d'affaires to that court. Some difficulties occurred on his arrival; but at the date of his last official despatch, he supposed they had been obviated, and that there was every prospect of the exchange being speedily effected.

This finishes the connected view I have thought it proper to give of our political and commercial relations in Europe. Every effort in my power will be continued to strengthen and extend them by treaties founded on principles of the most perfect reciprocity of interest, neither asking nor conceding any exclusive advantage, but liberating, as far as it lies in my power, the activity and industry of our fellow-citizens from the shackles which foreign restrictions may impose.

To China and the East Indies, our commerce continues in its usual extent, and with increased facilities, which the credit and capital of our merchants afford, by substituting bills for payments in specie. A daring outrage having been committed in those seas by the plunder of one of our merchantmen engaged in the pepper trade at a port in Sumatra, and the piratical perpetrators belonging to tribes in such a state of society that the usual course of proceeding between civilized nations could not be pursued, I forthwith despatched a frigate with orders to require immediate satisfaction for the injury, and indemnity to the sufferers.

Few changes have taken place in our connections with the independent States of America since my last communication to Congress. The ratification of a commercial treaty with the United Republics of Mexico has been for some time under deliberation in their Congress, but was still undecided at the date of our last despatches. The unhappy civil commotions that have prevailed there, were undoubtedly the cause of the delay; but as the Government is now said to be tranquillized, we may hope soon to receive the ratification of the treaty, and an arrangement for the demarcation of the boundaries between us. In the mean time, an important trade has been opened, with mutual benefit, from St. Louis in the State of Missouri, by caravans, to the interior provinces of Mexico. This commerce is protected in its progress through the Indian countries by the troops of the United States, which have been permitted to escort the caravans beyond our boundaries to the settled part of the Mexican territory.

From Central America I have received assurances of the most friendly kind, and a gratifying application for our good offices to remove a supposed indisposition towards that Government in a neighboring State: this application was immediately and successfully complied with. They gave us also the pleasing intelligence that differences which had prevailed in their internal affairs had been peaceably adjusted. Our treaty with this republic continues to be faithfully observed, and promises a great and beneficial commerce between the two countries; a commerce of the greatest importance, if the magnificent project of a ship canal through the dominions of that State, from the Atlantic to the Pacific Ocean, now in serious contemplation, shall be executed.

I have great satisfaction in communicating the success which has attended the exertions of our Minister in Colombia to procure a very considerable reduction in the duties on our flour in that republic. Indemnity, also, has been stipulated for injuries received by our merchants from illegal seizures; and renewed assurances are given that the treaty between the two countries shall be faithfully observed.

Chili and Peru seem to be still threatened with civil commotions; and, until they shall be settled, disorders may naturally be apprehended, requiring the constant presence of a naval force in the Pacific Ocean, to protect our fisheries and guard our commerce.

The disturbances that took place in the Empire of Brazil, previously to, and immediately consequent upon, the abdication of the late Emperor, necessarily suspended any effectual application for the redress of some past injuries suffered by our citizens from that Government, while they have been the cause of others, in which all foreigners seem to have participated. Instructions have been given to our Minister there, to press for indemnity due for losses occasioned by these irregularities, and to take care that our fellow-citizens shall enjoy all the privileges stipulated in their favor, by the treaty lately made between the two powers; all which, the good intelligence that prevails between our Minister at Rio Janeiro and the regency gives us the best reason to expect.

I should have placed Buenos Ayres on the list of South American Powers, in respect to which nothing of importance affecting us was to be communicated, but for occurrences which have lately taken place at the Falkland Islands, in which the name of that republic has been used to cover with a show of authority acts injurious to our commerce, and to the property and liberty of our fellow-citizens. In the course of the present year, one of our vessels engaged in the pursuit of a trade which we have always enjoyed without molestation, has been captured by a band acting, as they pretend, under the authority of the Government of Buenos Ayres. I have therefore given orders for the despatch of an armed vessel, to join our squadron in those seas, and aid in affording all lawful protection to our trade which shall be necessary; and shall, without delay, send a Minister to inquire into the nature of the circumstances, and also of the claim, if any, that is set up by that Government to those islands. In the mean time, I submit the case to the consideration of Congress, to the end that they may clothe the Executive with such authority and means as they may deem necessary for providing a force adequate to the complete protection of our fellow-citizens fishing and trading in those seas.

This rapid sketch of our foreign relations, it is hoped, fellow-citizens, may be of some use in so much of your legislation as may bear on that important subject; while it affords to the country at large a source of high gratification in the contemplation of our political and commercial connection with the rest of the world. At peace with all—having subjects of future difference with few, and those susceptible of easy adjustment—extending our commerce gradually on all sides, and on none by any but the most liberal and mutually beneficial means—we may, by the blessing of Providence, hope for all that national prosperity which can be derived from an intercourse with foreign nations, guided by those eternal principles of justice and reciprocal good will which are binding as well upon States as the individuals of whom they are composed.

I have great satisfaction in making this statement

of our affairs, because the course of our national policy enables me to do it without any indiscreet exposure of what in other Governments is usually concealed from the people. Having none but a straightforward, open course to pursue—guided by a single principle that will bear the strongest light—we have happily no political combinations to form, no alliances to entangle us, no complicated interests to consult; and in subjecting all we have done to the consideration of our citizens, and to the inspection of the world, we give no advantage to other nations, and lay ourselves open to no injury.

It may not be improper to add, that, to preserve this state of things, and give confidence to the world in the integrity of our designs, all our consular and diplomatic agents are strictly enjoined to examine well every cause of complaint preferred by our citizens; and, while they urge with proper earnestness those that are well founded, to countenance none that are unreasonable or unjust, and to enjoin on our merchants and navigators the strictest obedience to the laws of the countries to which they resort, and a course of conduct in their dealings that may support the character of our nation, and render us respected abroad.

Connected with this subject, I must recommend a revisal of our consular laws. Defects and omissions have been discovered in their operation, that ought to be remedied and supplied. For your further information on this subject, I have directed a report to be made by the Secretary of State, which I shall hereafter submit to your consideration.

The internal peace and security of our confederated States is the next principal object of the General Government. Time and experience have proved that the abode of the native Indian within their limits is dangerous to their peace, and injurious to himself. In accordance with my recommendation at a former session of Congress, an appropriation of half a million of dollars was made to aid the voluntary removal of the various tribes beyond the limits of the States. At the last session I had the happiness to announce that the Chickasaws and Choctaws had accepted the generous offer of the Government, and agreed to remove beyond the Mississippi River, by which the whole of the State of Mississippi and the western part of Alabama will be freed from Indian occupancy, and opened to a civilized population. The treaties with these tribes are in the course of execution, and their removal, it is hoped, will be completed in the course of 1832.

At the request of the authorities of Georgia, the registration of Cherokee Indians for emigration has been resumed, and it is confidently expected that one-half, if not two-thirds of that tribe, will follow the wise example of their more westerly brethren. Those who prefer remaining at their present homes will hereafter be governed by the laws of Georgia, as all her citizens are, and cease to be the objects of peculiar care on the part of the General Government.

During the present year, the attention of the Government has been particularly directed to those tribes in the powerful and growing State of Ohio, where considerable tracts of the finest lands were still occupied by the aboriginal proprietors. Treaties, either absolute or conditional, have been made, extinguishing the whole Indian title to the reservations in that State; and the time is not distant, it is hoped, when Ohio will be no longer embarrassed with the Indian population. The same measure will be extended to Indiana, as soon as there is reason to anticipate success.

It is confidently believed that perseverance for a few years in the present policy of the Government will extinguish the Indian title to all lands lying within the States composing our Federal Union, and remove beyond their limits every Indian who is not willing to submit to their laws. Thus will all conflicting claims to jurisdiction between the States and the Indian tribes be put to rest. It is pleasing to reflect that results so beneficial, not only to the States immediately concerned, but to the harmony of the Union, will have been accomplished by measures equally advantageous to the Indians. What the native savages become when surrounded by a dense population, and by mixing with the whites, may be seen in the miserable remnants of a few Eastern tribes, deprived of political and civil rights, forbidden to make contracts, and subjected to guardians, dragging out a wretched existence, without excitement, without hope, and almost without thought.

But the removal of the Indians beyond the limits and jurisdiction of the States does not place them beyond the reach of philanthropic aid and Christian instruction. On the contrary, those whom philanthropy or religion may induce to live among them in their new abode, will be more free in the exercise of their benevolent functions, than if they had remained within the limits of the States, embarrassed by their internal regulations. Now subject to no control but the superintending agency of the General Government, exercised with the sole view of preserving peace, they may proceed unmolested in the interesting experiment of gradually advancing a community of American Indians from barbarism to the habits and enjoyments of civilized life.

Among the happiest effects of the improved relations of our republic, has been an increase of trade, producing a corresponding increase of revenue, beyond the most sanguine anticipations of the Treasury Department.

The state of the public finances will be fully shown by the Secretary of the Treasury, in the report which he will presently lay before you. I will here, however, congratulate you upon their prosperous condition. The revenue received in the present year will not fall short of twenty-seven million seven hundred thousand dollars; and the expenditures for all objects other than the public debt will not exceed fourteen million seven hundred thousand. The payment on account of the principal and interest of the debt, during the year will exceed sixteen millions and a half of dollars; a greater sum than has been applied to that object, out of the revenue, in any year since the enlargement of the sinking fund, except the two years following immediately thereafter. The amount which will have been applied to the public debt from the 4th of March, 1829, to the 1st of January next, which is less than three years since the Administration has been placed in my hands, will exceed forty millions of dollars.

From the large importations of the present year, it may be safely estimated that the revenue which will be received into the Treasury from that source during the next year, with the aid of that received from the public lands, will considerably exceed the amount of the receipts of the present year; and it

is believed that with the means which the Government will have at its disposal, from various sources, which will be fully stated by the proper department, the whole of the public debt may be extinguished, either by redemption or purchase, within the four years of my Administration. We shall then exhibit the rare example of a great nation, abounding in all the means of happiness and security, altogether free from debt.

The confidence with which the extinguishment of the public debt may be anticipated, presents an opportunity for carrying into effect more fully the policy in relation to import duties, which has been recommended in my former Messages. A modification of the tariff, which shall produce a reduction of our revenue to the wants of Government, and an adjustment of the duties on imports, with a view to equal justice in relation to all our national interests, and to the counteraction of foreign policy, so far as it may be injurious to those interests, is deemed to be one of the principal objects which demand the consideration of the present Congress. Justice to the interests of the merchant as well as the manufacturer requires that material reductions in the import duties be prospective: and unless the present Congress shall dispose of the subject, the proposed reductions cannot properly be made to take effect at the period when the necessity for the revenue arising from present rates shall cease. It is, therefore, desirable that arrangements be adopted at your present session, to relieve the people from unnecessary taxation, after the extinguishment of the public debt. In the exercise of that spirit of concession and conciliation which has distinguished the friends of our Union in all great emergencies, it is believed that this object may be effected without injury to any national interest.

In my annual Message of December, 1829, I had the honor to recommend the adoption of a more liberal policy than that which then prevailed towards unfortunate debtors to the Government; and I deem it my duty again to invite your attention to this subject.

Actuated by similar views, Congress at their last session passed an act for the relief of certain insolvent debtors of the United States: but the provisions of that law have not been deemed such as were adequate to that relief to this unfortunate class of our fellow-citizens, which may be safely extended to them. The points in which the law appears to be defective will be particularly communicated by the Secretary of the Treasury: and I take pleasure in recommending such an extension of its provisions as will unfetter the enterprise of a valuable portion of our citizens, and restore to them the means of usefulness to themselves and the community. While deliberating upon this subject, I would also recommend to your consideration the propriety of so modifying the laws for enforcing the payment of debts, due either to the public or to individuals suing in the courts of the United States, as to restrict the imprisonment of the person to cases of fraudulent concealment of property. The personal liberty of the citizen seems too sacred to be held, as in many cases it now is, at the will of a creditor to whom he is willing to surrender all the means he has of discharging his debt.

The reports from the Secretaries of the War and Navy Departments, and from the Postmaster General, which accompany this Message, present satisfactory views of the operations of the departments respectively under their charge; and suggest improvements which are worthy of, and to which I invite, the serious attention of Congress. Certain defects and omissions having been discovered in the operation of the laws respecting patents, they are pointed out in the accompanying report from the Secretary of State.

I have heretofore recommended amendments of the federal constitution giving the election of President and Vice President to the people, and limiting the service of the former to a single term. So important do I consider these changes in our fundamental law, that I cannot, in accordance with my sense of duty, omit to press them upon the consideration of a new Congress. For my views more at large, as well in relation to these points as to the disqualification of Members of Congress to receive an office from a President in whose election they have had an official agency, which I proposed as a substitute, I refer you to my former Messages.

Our system of public accounts is extremely complicated, and, it is believed, may be much improved. Much of the present machinery, and a considerable portion of the expenditure of public money, may be dispensed with, while greater facilities can be afforded to the liquidation of claims upon the Government, and an examination into their justice and legality, quite as efficient as the present, secured. With a view to a general reform in the system, I recommend the subject to the attention of Congress.

I deem it my duty again to call your attention to the condition of the District of Columbia. It was doubtless wise in the framers of our constitution to place the people of this District under the jurisdiction of the General Government; but to accomplish the objects they had in view, it is not necessary that this people should be deprived of all the privileges of self-government. Independently of the difficulty of inducing the Representatives of distant States to turn their attention to projects of laws which are not of the highest interest to their constituents, they are not individually, nor in Congress collectively, well qualified to legislate over the local concerns of this District. Consequently, its interests are much neglected, and the people are almost afraid to present their grievances, lest a body, in which they are not represented, and which feels little sympathy in their local relations, should, in its attempt to make laws for them, do more harm than good. Governed by the laws of the States, whence they were severed, the two shores of the Potomac, within the ten miles square, have different penal codes; not the present codes of Virginia and Maryland, but such as existed in those States at the time of the cession to the United States. As Congress will not form a new code, and as the people of the District cannot make one for themselves, they are virtually under two Governments. Is it not just to allow them at least a delegate in Congress, if not a local Legislature to make laws for the District, subject to the approval or rejection of Congress? I earnestly recommend the extension to them of every political right which their interests require, and which may be compatible with the constitution.

The extension of the judiciary system of the United States is deemed to be one of the duties of Government. One-fourth of the States in the Union do not participate in the benefits of a circuit court. To the States of Indiana, Illinois, Missouri,

Alabama, Mississippi, and Louisiana, admitted into the Union since the present judicial system was organized, only a district court has been allowed. If this be sufficient, then the circuit courts, already existing in eighteen States, ought to be abolished: if it be not sufficient, the defect ought to be remedied, and these States placed on the same footing with the other members of the Union. It was on this condition, and on this footing, that they entered the Union; and they may demand circuit courts as a matter, not of concession, but of right. I trust that Congress will not adjourn, leaving this anomaly in our system.

Entertaining the opinions heretofore expressed in relation to the Bank of the United States, as at present organized, I felt it my duty, in my former Messages, frankly to disclose them, in order that the attention of the Legislature and the people should be seasonably directed to that important subject, and that it might be considered and finally disposed of in a manner best calculated to promote the ends of the constitution, and subserve the public interests. Having thus conscientiously discharged a constitutional duty, I deem it proper, on this occasion, without a more particular reference to the views of the subject then expressed, to leave it for the present to the investigation of an enlightened people and their representatives.

In conclusion, permit me to invoke that power which superintends all Governments, to infuse into your deliberations, at this important crisis of our history, a spirit of mutual forbearance and conciliation. In that spirit was our Union formed, and in that spirit must it be preserved.

ANDREW JACKSON.

WASHINGTON, *December* 6, 1831.

On motion of Mr. KING, it was ordered that three thousand copies of the Message, and fifteen hundred copies of the accompanying documents, be printed for the use of the Senate.

WEDNESDAY, December 7.

State of the Finances.

The President of the Senate communicated the annual report of the Secretary of the Treasury on the state of the finances, the reading of which was dispensed with, and fifteen hundred additional copies ordered to be printed for the use of the Senate.

THURSDAY, December 8.

Imprisonment of American Citizens.

The following resolution, yesterday submitted by Mr. SPRAGUE, was considered and agreed to:

"*Resolved*, That the President of the United States be requested to communicate with the Senate, if not incompatible with the public interest, all the information in his power, relative to the capture, abduction, and imprisonment of American citizens, by the provincial authorities of New Brunswick, and the measures which, in consequence thereof, have been adopted by the Executive of the United States."

MONDAY, December 12.

The Vice President of the United States attended to-day, and took the chair of the Senate.

On motion of Mr. CHAMBERS, it was ordered that the several officers of the Senate, who are now officiating, shall continue to act in their respective stations until Monday next.

WEDNESDAY, December 14.

The following Message from the President of the United States was received, and read, and ordered to be printed:

WASHINGTON, *December* 13, 1831.

To the Senate of the United States:

I transmit herewith, in obedience to a resolution of the Senate of the 8th December, 1831, all the information in the possession of the Executive, relative to the capture, abduction, and imprisonment of American citizens by the provincial authorities of New Brunswick; and the measures which, in consequence thereof, have been adopted by the Executive of the United States.

ANDREW JACKSON.

MONDAY, December 19.

Election of Officers.

The Chair announced the order of the day, for proceeding to the election of the officers of the Senate, and desired the members to prepare their ballots for Secretary.

The ballot was then taken for Secretary, when there appeared—

For Walter Lowrie, - - -	40 votes.
Scattering, - - - - -	1

The Senate then balloted for a principal doorkeeper, when Mountjoy Bayly was re-elected without opposition.

Mr. Shackford, of Missouri, was elected assistant doorkeeper; and

The several officers were sworn in by the President of the Senate.

The Rev. Mr. Durbin, of Kentucky, was elected chaplain on the part of the Senate.

The Senate then spent a short time in executive business; and then adjourned.

TUESDAY, December 20.

The Tariff—Duties on Teas.

The Senate then proceeded to the consideration of the following report, made yesterday from the Committee on Finance:

The Committee on Finance, to which were referred the memorials of the importers and dealers in teas, of New York, Philadelphia, Baltimore, and Pittsburg, report:

That the memorialists pray, that in case Congress shall contemplate any reduction in the duties on

teas, that such reduction may be made to take effect from and after the 31st December of the present year; being the same time at which the act of the 20th May, 1830, entitled "An act to reduce the duties on coffee, tea, and cocoa," will take effect on teas: their object being that whenever reduction in the duties on teas may be made, that it may operate simultaneously with the said act of May, 1830.

The committee deemed it proper to consult the Secretary of the Treasury on the subject, and particularly as to the effect an immediate reduction of the duties would have on the finances of the nation. His answer, they ask permission to submit as part of their report.

The committee are fully aware of the inconvenience which must arise to commercial men, by frequent changes in the duties. They are constrained, however, to report that it is inexpedient to act on the subject of the memorials at this time.

TREASURY DEPARTMENT,
December 15, 1831.

SIR: I had the honor to receive yesterday your letter of the 14th instant, accompanied by a memorial of sundry merchants of New York, praying that any further contemplated reduction in the duties on tea may take effect on the 1st of January, 1832.

In answer to your request that I would state the effect upon the revenue of the reduction of the duties on teas to certain rates which have been proposed by persons engaged in the tea trade, to go into operation at the time above mentioned, I beg leave to state, generally, that such a reduction could not be made without materially disturbing the estimates presented in the late annual report from this deparment on the state of the finances, nor consistently with the views entertained as to the entire payment of the debt on or before the 3d of March, 1833.

Without more precise information than the department possesses of the quantity of tea in store, it is difficult to furnish the details you request. The quantity, however, may be supposed to be greater than it otherwise would be, in consequence of the mutual desire, both of the importer and the retail dealer, to preserve as much as possible of the importation, for the benefit of the reduced duties which are to take effect on the 1st of January next.

It will appear from the statement herewith transmitted, that the proposed reduction would be attended with a probable diminution in the revenue, varying from half a million downwards, according to the quantity of tea which may be found actually in store on the 1st of January.

It is believed, moreover, that the principal benefits of the proposed reduction would be conferred on the importer rather than the consumer. If, as is understood to be the fact, there is a small quantity of tea in the hands of the retail dealers, it might not follow that the prices either of that now in bond, or of that ordered for importation, would fall in proportion to the reduction; whereas, the importer can suffer neither loss nor inconvenience from the operation of a law, with a view to which his business has been regulated for more than a year past.

The department is not satisfied—though upon this point I do not wish to be considered as expressing a positive opinion—that it will be expedient at any time to reduce the duties on teas materially lower than the rates of January next. These duties will not be sufficiently high to affect, in any sensible degree, the consumption of the article; and though diminished upon an importation equal to that of 1830, from $2,049,342 02, to $898,974 46, yet they will always be a safe source of revenue. In a general revision of the tariff, Congress will find a great convenience in drawing the revenue from as few articles as may be consistent with the interests of the community, instead of being subjected to the necessity of spreading it over numerous commodities; and there are cogent reasons why any further reduction on teas should await such general revision of the existing duties as the state of the finances and public expenditure may call for. The memorial is herewith returned.

Any further reduction which it may then be found expedient to make, may be readily adapted, both in amount and in time, to the interests and convenience of the importers.

I have the honor to be, with great respect, your obedient servant,

LOUIS McLANE,
Secretary of the Treasury.

The Hon. S. SMITH,
Chairman of the Committee on Finance, Senate.

WEDNESDAY, January 4, 1832.

American State Papers.

The VICE PRESIDENT communicated the following letter:

To the honorable the Senate of the United States:

The undersigned respectfully represent, that, encouraged thereto by the act of Congress of the last session authorizing a subscription to the work, they have not only made a beginning, but have made considerable progress, in the execution of their proposition for publishing a compilation of the public documents of the United States. They have now the pleasure to submit to the Senate two volumes, which, excepting the indexes thereto, not yet ready for the press, and the title-pages, which are but temporarily composed, they respectfully submit as samples of the whole work.

In the arrangement as well as the selection of the materials of this great national work, they have been governed by the decisions of the Secretary of the Senate and the Clerk of the House of Representatives, under whose directions, moreover, exclusively, the materials of it have been prepared for the press. To their intelligence, industry, and discrimination, and that of the gentlemen in their respective offices, it will owe whatever value it possesses beyond that of a mere print and reprint of the documents on the files of the two Houses of Congress. The caution of Congress, in committing these matters to their ability and discretion, rather than to that of the publishers, has, in the opinion of the undersigned, been justified in the fullest extent by the order, and the form and pressure which have been given to the work.

In the arrangement of the documents, the principle of classification has been adopted, the advantages of which will be apparent upon the slightest examination of the samples of it herewith transmitted. The two volumes now presented are not

the first in the series, but are those which have been most easily collated. One of them, it will be discovered, comprises all the congressional documents upon Indian Affairs, (one of the classes,) from the beginning of the Government up to the commencement of the 14th Congress, to which date, (4th March, 1815, inclusive,) the plan of the present series extends. The other is the first volume of the class of Finance, the whole of which occupies two volumes. When indexes, copious and well digested, such as are in preparation, are added to these volumes, they will afford a facility to the investigations of our legislators, whether in debates or in committee business, which will amply compensate for the expense of the publication, without adverting to their value as national memorials, which of itself, it is respectfully submitted, would have fully justified the sanction which has been given to this undertaking.

The two volumes herewith presented comprise about one-half of what has been already done in the printing of the work, which is in the course of steady prosecution, and of which it is hoped eight or ten volumes may be ready for delivery before the close of the present Congress.

Of the execution of this work, for which alone the undersigned have any right to credit, they beg leave to observe, only, that they have endeavored to make it such as should be creditable to the Government, and as should justify the liberal confidence which, by the act of the last session, Congress has reposed in the undertakers. They confidently submit its merits to a comparison with those of any other work of the like nature, ever published in this or any other country.

A superficial examination of these sample volumes will suffice to satisfy the intelligent observer of the importance of the work to the public service, and to the history of the country. Documents of the highest interest will be found in it, which were either before unknown to the present generation, or forgotten by it, though yet of modern antiquity. Some, which have lain buried under the mass of less important papers which it has not been deemed useful to include in this publication, are such as enlighten obscure passages in our civil history, and add new motives for the veneration with which the memory of the early actors in the Government is habitually cherished. The class of Foreign Relations, first in order, but suspended in its execution to await the decision of the Senate in regard to the publicity of some of the documents which it would appear properly to comprise, will, when completed, be one of the most interesting and instructive works that has issued from the press within the last thirty years, possessing all the attraction of fiction, sanctified by all the fidelity of truth.

The undersigned will only add, that the sample volumes herewith submitted have been put in different bindings, with a view to consult the general opinion as to which description is preferable.

All which is respectfully submitted by the publishers. GALES & SEATON.

On motion of Mr. KING, of Alabama, the letter was ordered to be printed, and was referred to the Committee on the Library.

THURSDAY, January 5.

Duty on Indian Blankets.

The bill to reduce the duty on Indian blankets, and certain other Indian goods, [introduced yesterday, on leave, by Mr. BENTON,] was read the second time; when

Mr. BENTON moved to refer it to the Committee on Finance. He thought, in justice and propriety, the bill ought to go to the Committee on Indian Affairs for consideration; but he yielded to the opinions of others, and consented to refer it to the Committee on Finance.

Mr. DICKERSON moved to refer the bill to the Committee on Manufactures.

Mr. BENTON said that he perceived that the gentleman was disposed to have the present bill to take the same course that the salt bill heretofore introduced had taken. He was of opinion that there was another committee, besides that of Finance, that should take precedence of the Committee on Manufactures. He alluded to the Committee on Indian Affairs. That committee had the concerns of the Indians, and the trade of the United States with them, under their supervision; and as the present bill proposed a measure calculated to affect that trade, it more properly belonged to that committee, than to the Committee on Manufactures. It was the province of the Committee on Indian Affairs to know how the trade with the Indians was carried on, whether the articles obtained from them were procured by fair and open purchase, or secretly smuggled from the mouth of the Columbia. This bill was, like its predecessor, designed to effect a reduction of the public burdens, by diminishing the revenue derived from duties on imports; and its connection with the subject of Indian affairs, in his opinion, gave it a fair claim to be referred to the Committee on Indian Affairs; but, as that committee was likely to be objected to, he would waive this reference, and move that it be referred to the Committee on Finance.

The question then occurred on referring the bill to the Committee on Manufactures.

Mr. BENTON said he should object to this reference. He observed that it was the apparent intention of certain gentlemen to give every thing into the hands of the Committee on Manufactures—implying that they alone were competent to examine and report on questions of great national interest or importance. He understood that, by the rules of the Senate, bills were to be sent to that committee which were friendly to the measure, for the purpose of receiving amendments, if necessary, and rendered as perfect as possible before they were brought forward for a full and final discussion. He should therefore object to the reference of this bill to the Committee on Manufactures, on the ground of its not being the regular or correct parliamentary course to refer bills to a committee known to be directly opposed to their principles or objects. He would

repeat, that all legislative proceedings of this kind were bottomed on the principle that bills on their first introduction should be intrusted to the friends of the measure, for the purpose of being corrected and rendered as perfect as its friends could make it, before it was brought forward to receive the scrutiny of its enemies, and pass the ordeal of a public examination. The course proposed by the gentleman from New Jersey he considered a violation of the established course of all legislative proceedings, and contrary to all parliamentary rules relative to the reference of bills.

[Here Mr. B. read from the manual of the rules of the Senate, and the usages of the British Parliament, in confirmation of the position maintained, the following extracts: "Those who would totally destroy, will not amend;" "the child is not to be put to a nurse that cares not for it."]

Mr. B. resumed. A child was not to be put out to a nurse who would neglect the care of it, or suffer it to die for want of nourishment. Neither was a measure proposed in the Senate of the United States to be given to its enemies for the purpose of being matured, corrected, and rendered fit for public examination. The consequence of such a course could be easily foreseen: it would be suffered to lie neglected until every thing else in their hands was finished; and if brought forward at all, it would probably be so near the close of the session, that it would be lost for want of time; and then so mangled and deformed, that its friends would not be able to recognize it. And therefore, the present bill, together with the bill to abolish the duty on alum salt, would die on their hands, and be followed to the grave by the gentleman and his committee, though not in the character of mourners. No, sir, said Mr. B., this bill ought not to be referred to a hostile committee, to be returned, with broken limbs and mangled features, to this Senate, for their approval. Such a committee has nothing to do with it. It ought even to refuse to receive it; to show which, he read from the manual this sentence: that "when any member who is against the bill hears himself named of its committee, he should ask to be excused," &c. Mr. B. said that he hoped the Senate would allow the bill to go to the committee where it would be perfected and brought forward in proper time.

Mr. DICKERSON said that he was aware that it was, or had been, a rule in the British Parliament, in certain cases of reference, to commit the measure to its friends; but the practice of the American Senate was different. That body had standing committees; and it had not heretofore been their custom to take notice of friends or enemies in questions of this kind, or to enter into an inquiry to ascertain who were, or who were not, friendly to the proposed measure. He believed it would be a course as unacceptable as it was uncommon, to institute an inquiry in every case of this kind for the purpose of ascertaining who were enemies and who were friends of the measure proposed. He would ask the gentleman from Missouri how he knew that the Committee on Manufactures were, or would be, hostile to the present bill. How does he know that the Committee on Indian Affairs, or the Committee on Finance, are friendly to it? It would be a very strange course of proceeding, in his opinion, to institute such an inquiry. Sir, said Mr. D., a very important object to be attained by referring bills to committees, is, to enable them to examine, approve, or disapprove of, and report accordingly—not finally to decide their fate. For instance, if, upon examination and inquiry, they should see that the adoption of the proposed measure would materially injure some important interest, it would be their duty to state their views of the subject for the consideration of the Senate. It was the province of the committee simply to report its opinion—not to pass or reject the bill. No committee, said Mr. D., can break, suppress, or deform a bill. They can only report upon it; and if the report does not meet the views of the friends of the bill, they are at liberty to oppose it. If the report is delayed beyond the proper time, they have a right to demand its appearance, by a rule of the Senate which authorizes a call upon the committee for a report. The committee, Mr. D. said, could only modify the bill; they had no power to control it. In conclusion, he hoped the Senate would follow the usual practice, and refer the subject to the Committee on Manufactures.

The question was then taken on the reference to the Committee on Manufactures, and agreed to, by yeas and nays, as follows:

YEAS.—Messrs. Bell, Buckner, Clay, Dallas, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Marcy, Naudain, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Tomlinson, Waggaman, Webster, Wilkins—25.

NAYS.—Messrs. Benton, Bibb, Brown, Ellis, Forsyth, Grundy, Hayne, Hill, King, Mangum, Miller, Moore, Smith, Tazewell, Tipton, Troup, Tyler, White—18.

After the consideration of a number of private bills,

The Senate adjourned to Monday.

MONDAY, January 9.

Bank of the United States.

Mr. DALLAS presented the following memorial from the President, Directors, and Company of the Bank of the United States:

To the Senate and House of Representatives of the United States in Congress assembled:

The memorial of the President, Directors, and Company of the Bank of the United States, in the name and in behalf of the stockholders of the bank, respectfully represents—

That the charter of the bank being about to expire on the 4th of March, 1836, your memorialists

deem it their duty to invite the attention of Congress to its renewal.

The general considerations which caused the establishment of the bank, the manner in which it has executed the duties assigned to it, and the reasons which recommend its continuance, your memorialists forbear to discuss, since, of these subjects, your honorable bodies are more competent and appropriate judges. They will therefore merely state the views which induce their application at this time.

Unless the question is decided by the present Congress, no definitive action upon it can be expected until within two years of the expiration of the charter—a period before which, in the opinion of your memorialists, it is highly expedient, not merely in reference to the institution itself, but to the more important interests of the nation, that the determination of Congress should be known. Independently of the influence which the bank was designed to possess, and which it necessarily exercises over the state of the currency, by which all the pecuniary transactions of the community are regulated, its own immediate operations are connected intimately with the local business of almost every section of the United States, with the commercial interchanges between the several States, and the intercourse of them all with foreign nations.

Of the value to the community of the system which, after long and anxious efforts, and at great pecuniary sacrifices, your memorialists have at length succeeded in establishing, it is not for them to speak; their more immediate purpose is to represent, as they do, most respectfully, that the continuance or destruction of that system, thus widely diffused through all the avenues of the productive industry of the country, affecting all the relations of public revenue and private income, and contributing to give stability to all the rewards of labor, is an object of general solicitude. If, satisfied with the practical operations of the institution, your honorable body shall deem it worthy of continuance, it seems expedient to relieve the country, as soon as may consist with mature deliberation, from the uncertainty in which all private transactions, and all public improvements, dependent on the future condition of the currency, and amount of capital disposable for those objects, must necessarily be involved until your decision is known. If, on the other hand, the wisdom of Congress shall determine that the bank must cease to exist, it is still more important that the country should begin early to prepare for the expected change, and that the institution should have as much time as possible to execute the duty, always a very delicate and difficult one, of aiding the community to seek new channels of business, and, by gradual and gentle movements, to press with the least inconvenience on the great interests connected with it.

Under these impressions they respectfully request that the charter of the bank may be renewed.

By order of the Board of Directors:

N. BIDDLE, *President.*

Mr. DALLAS said, that being requested to present this document to the Senate, praying for a renewal of the existing charter of the bank, he begged to be indulged in making a few explanatory remarks. With unhesitating frankness, he wished it to be understood by the Senate, by the good commonwealth which it was alike his duty and his pride to represent with fidelity on that floor, and by the people generally, that this application, at this time, had been discouraged by him. Actuated mainly, if not exclusively, by a desire to preserve to the nation the practical benefits of the institution, the expediency of bringing it forward thus early in the term of its incorporation, during a popular representation in Congress, which must cease to exist some years before that term expires, and on the eve of all the excitement incident to a great political movement, struck his mind as more than doubtful. He felt deep solicitude and apprehension lest, in the progress of inquiry, and in the development of views, under present circumstances, it might be drawn into real or imagined conflict with some higher, some more favorite, some more immediate wish or purpose of the American people.

And from such a conflict, what sincere friend of this useful establishment would not strive to save or rescue it by at least a temporary forbearance and delay? Nevertheless, his conscious inexperience in the forms and contingencies of legislation inspired a distrust of his own judgment on this merely preliminary point. The determination of the parties interested may be, nay, must be, wiser and better; and he could not but feel strongly impressed by the recollection that the Legislature of Pennsylvania recently, and, in effect, unanimously, had recommended the renewal of the charter of the bank. He became, therefore, a willing, as he was virtually an instructed agent, in promoting, to the extent of his humble ability, an object which, however dangerously timed its introduction might seem, was in itself, as he conceived, entitled to every consideration and favor.

Mr. D. concluded by moving that the memorial be read, and be referred to a Select Committee of five in number, and that the committee have power to send for persons and papers.

The Senate then proceeded to ballot for the committee, and the following gentlemen were chosen to compose it, viz: Mr. DALLAS, Mr. WEBSTER, Mr. EWING, Mr. HAYNE, and Mr. JOHNSTON.

TUESDAY, January 10.

Bank of the United States.

Mr. BENTON submitted the following motions:

Resolved, That the Secretary of the Treasury be directed to furnish the Senate with the names and titles of the foreign stockholders in the Bank of the United States, if any document in his office will afford that information; and, if not, to endeavor to obtain that information from the bank aforesaid, and lay it before the Senate as soon as possible, with the amount of stock held by each.

Resolved, That the Secretary of the Senate be

directed to lay before the Senate information, first, of the amount of debt due from individuals and bodies corporate to the Bank of the United States, and its branches, distinguishing the amount secured by mortgage from that secured by personal security alone; and what portion of said debts are considered as standing accommodations to the customers of said bank and its branches.

Resolved, That the Secretary of the Treasury be directed to lay before the Senate a list of the directors of the Bank of the United States, and of the several branches, and a statement of the stock held by citizens of the United States, with the number of shares held by each, and the State or Territory of their residence; also, the amount of specie, according to their last return, in the vaults of the bank and its branches, distinguishing the part which belongs to the bank, the portion belonging to individuals, and to the United States.

Resolved, That the Secretary of the Treasury be directed to lay before the Senate the monthly statements of the affairs of the Bank of the United States for the year 1831.

Public Expenditures.

The bill for the erection of barracks, quarters, and storehouses, and the purchase of a site, in the vicinity of New Orleans, was read the third time, passed, and sent to the other House.

When this bill was put on its passage,

Mr. SMITH, of Maryland, rose to offer some remarks in reply to assertions which had been made by gentlemen on a former occasion, touching the public expenditures. He began by saying he was in favor of the present bill, because it appropriated money for an object essential to the interests of a weak part of the Union; and no fear of censure for increasing the annual expenditure of the nation would deter him from supporting measures which he considered necessary and conducive to the public welfare. Our duty, said Mr. S., is paramount to every consideration of this kind. I care not whether the expenses of the present Administration have, or have not, exceeded that of any other Administration; my sole view is to provide for what is necessary, and the provisions of this bill appear to me to be of this character.

On a late occasion, said Mr. S., a bill in which I felt a deep interest, was rejected on the ground that it increased the public expenses. It did not. It merely authorized an appropriation of two hundred thousand dollars per annum, instead of the annual sum of one hundred thousand dollars, and would have enabled the Executive to arm the fortifications in ten instead of twenty years. The argument was then urged, that the annual expenses of the Government went on increasing. The Senator from Missouri (Mr. BENTON) distinctly said "that the expenditures of the Government had nearly doubled since he took a seat in the Senate." This assertion was considered essentially correct by the Senator from South Carolina, (Mr. HAYNE.) The assertion thus broadly made by Senators of such high standing, and generally so very correct—by Senators who are so highly appreciated, could not fail to have great influence on this body. I confess, Mr. President, that I then thought they were mistaken, and I answered them guardedly. I did not positively deny the assertion. I somewhat doubted my own opinion, when opposed to the positive assertions of gentlemen for whom I entertain great respect. When the Senate adjourned on that day, I remarked to a Senator that I thought those gentlemen had committed a great error. He replied that he thought their statements correct. This induced me to reflect on the subject, and to see whether I could not ascertain the truth or fallacy of the assertion. I found that the Senator (Mr. BENTON) had taken his seat in the Senate at the session of 1821–'22; of course the expenditures for the year 1822 were those which he asserted had been nearly doubled since he came into the Senate. I saw how I could obtain the desired information. I caused a statement to be made from the annual reports of the Secretary of the Treasury, from the year 1822 to 1830, both years inclusive. In order to avoid any error in this statement, I sent it to the Treasury for the purpose of being minutely examined. It has been returned to me as perfectly correct; and I was referred to the book called "Receipts and Expenditures for the year 1830," lately delivered to each Senator, for a full view of the expenses for a series of years, and I found a perfect accordance with the statement I had prepared. So that the exposé which I propose to give, is, I may truly say, founded on facts, leaving nothing vague or derived from conjecture. The book to which I have alluded, I immediately sent to the Baltimore library without inspecting it. I had no idea of looking in it for the detailed statement of our expenditures. Every Senator has the book, and can, at his leisure, compare it with the view which I propose to give; in which I flatter myself I shall be able to show that the Senators from Missouri and South Carolina have been mistaken; that the expenses have not nearly doubled, nor increased—in fact, if the expenditure in one year exceed thirteen millions, the next year falls below that amount; and that the average expenditure of the last nine years, say 1822 to 1830, both inclusive, amounts only to the sum of twelve million three hundred and seventy thousand four hundred and thirty-one dollars.

A superficial reader, Mr. President, when he looks at the public expenditures, most generally will look at the sum total of each year, and will conclude that the expenses have been higher or lower than usual. He has no particular object in view, and will not give himself the trouble to investigate the causes which create the large or small expenditures of any one year. Thus, he may look at the expenses of 1817, and will find the total amount to have been the enormous sum of $40,877,646. He

then turns to the year 1818, and finds the total expenditures of that year to amount to the sum of $35,104,875. He takes the year 1819, and finds the expenses only $24,004,199, and concludes in his own mind that the Congress of 1817 and 1818 must have been extravagant in their appropriations of the public money, and the Executive no better. When, if he had investigated the subject fully, he would have found that there had been paid in 1817, towards the extinguishment of the public debt, the unusual sum of $25,423,886, thus reducing the ordinary expenses of the Government to the sum of $15,454,609; that, in the year 1818, there had been paid towards the redemption of the public debt the sum of $21,296,001, thus making the ordinary expenditures of the Government amount to the sum of $13,908,678. The expenditure, independently of the payment on account of the debt, amounted to $16,300,273 in the year 1819. This increase arose from various causes not necessary to detail. There was paid towards the public debt in the year 1819 the sum of $7,703,926 only. This diminution of payment is attributable to the fact that there was little of the principal of the public debt then payable.

I will now come, Mr. President, to my principal object. It is the assertion, "that, since the year 1821, the expenses of the Government had nearly doubled;" and I trust I shall be able to show that the Senator from Missouri (Mr. BENTON) had been under some misapprehension. The Senate are aware of the effect which such an assertion, coming from such high authority, must have upon the public mind. It certainly had its effect, even upon this enlightened body. I mentioned to an honorable Senator a few days since, that the average ordinary expenditure of the Government for the last nine years did not exceed the sum of twelve and a half millions. But, said the Senator, the expenditures have greatly increased during that period. I told him I thought they had not; and I now proceed to prove, that, with the exception of four years, viz., 1821, 1822, 1823, and 1824, the expenditures of the Government have not increased. I shall endeavor to show the causes of the reduction of expenses during those years, and that they afford no criteria by which to judge of the necessary expenses of Government, and that they are exceptions to the general rate of expenditures, arising from particular causes. But even they exhibit an expenditure far above the one-half of the present annual ordinary expenses.

In the year 1822, which was the period when the Senator from Missouri (Mr. BENTON) took his seat in the Senate, the ordinary expenses of the Government amounted to the sum of $9,827,643. The expenses of the year 1823 amounted to $9,784,154. I proceed, Mr. President, to show the cause which thus reduced the ordinary expenses during these years. I speak in the presence of gentlemen, some of whom were then in the House of Representatives, and will correct me if my recollection should lead me into error. During the session of the year 1819–'20, the President asked a loan, I think, of five millions, to defray the expenses of the Government, which he had deemed necessary, and for which estimates had, as usual, been laid before Congress. A loan of three millions only was granted; and, in the next session, another loan of, I think, seven millions was asked, in order to enable the Executive to meet the amount of expenses estimated for, as necessary for the year 1821. A loan of five millions was granted, and in the succeeding year another loan of five hundred thousand dollars was asked, and refused. Congress were dissatisfied that loans should be required in time of profound peace, to meet the common expenses of the nation, and they refused to grant the amount asked for in the estimates, although this amount would have been granted if there had been money in the Treasury to meet them, without resorting to loans. The Committee of Ways and Means (and it was supported by the House) lessened some of the items estimated for, and refused others. No item, except such as was indispensably necessary, was granted. By the adoption of this course, the expenditures were reduced, in 1821, to $10,723,479, and to the sums already mentioned for the two years, 1822 and 1823, and the current expenses of 1824, $10,330,144. The consequence was, that the Treasury was restored to a sound state, so that Congress was enabled, in the year 1825, to appropriate the full amount of the estimate. The expenditures of 1824 amounted to $15,330,144. This large expenditure is to be attributed to the payment made to Spain in that year, of $5,000,000 for the purchase of Florida. I entertained doubts whether I ought to include this sum in the expenditures; but, on full consideration, I deemed it proper to include it. It may be said that it was an extraordinary payment, and such as could not again occur. So is the payment on account of awards under the treaty of Ghent, in 1827 and 1828, amounting to $1,188,716. Of the same character, too, are the payments made for the purchase of lands from the Indians; for the removal of the Indians; for payments to the several States for moneys advanced during the late war; and a variety of other extraordinary charges on the Treasury. The payment on account of the purchase of Florida happened in the last seven years; and if this sum were deducted from the expenditures of 1824, it would exhibit a great reduction in the expenses of the last seven years, when contrasted with those of the seven years between 1817 and 1823, both years inclusive. The comparison of average expenses between the first seven years, contrasted with the last seven years, would then amount to $12,783,337 for the first period, and $12,388,868 for the latter period; which would show an actual average decrease of $344,469 between these

periods. This decrease could be rendered much greater, if the other extraordinary expenditures to which I have referred were also deducted in the comparison. The subsequent years being years when no deductions were made from the estimates, it will be seen to vary alternately.

In the year 1825, the expenses were

			$11,490,450
1826,	-	-	13,062,316
1827,	-	-	12,653,095
1828,	-	-	13,296,041
1829,	-	-	12,660,490
1830,	-	-	13,229,533

It may be proper for me to show that the average expenditures of the Government for these nine years, say from 1822 to 1830, both inclusive, amount only to the sum of $12,870,431. A considerable part of these expenditures has arisen from extraordinary charges on the Treasury, such as, for the removal of the Indians; the purchase of their lands; the payment of the States for the advances made by them during the late war; for property destroyed by the enemy; and for payment of awards under the first article of the treaty of Ghent, amounting to $1,188,716. A navy has been created, and our national flag floats proudly on every sea. Immense fortifications have been erected. Arsenals have been built in different parts of the Union, and filled with small arms and the munitions of war. The only wonder is, that so much has been done, with such limited expenditures.

I think I have shown, Mr. President, "that the expenditures of the Government have not nearly doubled since the year 1821;" nor do I think that there has been any increase. If there had been any, the fault would rest with Congress.

It has been said, Mr. President, "that the expenses of the Government increase annually, and go on increasing." With a view of testing this assertion, and also of elucidating this subject, I trust I shall be permitted to institute a few comparisons. The first will be between the expenditures of the four years, 1817, 1818, 1819, and 1820, with those of the four years, 1827, 1828, 1829, and 1830. I find, on examination, that the average expenses of the first four years amount to the sum of $14,699,521, and of the last four years to the sum of $12,959,790, showing a decrease in the public expenditures exceeding a million and a half of dollars; thus amply contradicting the assertion, that the public expenditures "go on increasing." The second comparison I shall make will be between the four years, 1823, 1824, 1825, and 1826, with those of 1827, 1828, 1829, and 1830. I find that the average expense of the first four years amounts to the sum of $12,416,768, and the last four years to $12,959,790, showing an average increase of $543,022, or an annual average increase of $135,755, inconsiderable in amount, and arising from the reduced expenditures in the year 1823, the cause for which has been already stated, and to the payment in 1830 of the Massachusetts militia claim of four hundred and thirty thousand dollars. Were it not for the payment of this latter claim in 1830, the comparison would have shown a different result. The true test is to be found in comparing the expenditures of the Government in those years when Congress were not restricted in the expenditures by reason of a scanty Treasury.

The next comparison I offer, will be the expenditures of the seven years from 1817 to 1823, both years inclusive, with those of the seven subsequent years, beginning with the year 1824 to 1830, both inclusive, and I find that the annual average expenditure of the first seven years amounts to $12,733,337, and of the last seven years to the sum of $13,103,154 —presenting an inconsiderable increase, which is entirely attributable to the fact that reductions had been made in the years 1821, 1822, 1823, and 1824, on account of a scanty Treasury, which reductions, in the ordinary expenses of the Government, had had a tendency to cause an increase of expenditures in the succeeding years. These reductions were not savings; they were a mere temporary diminution of necessary expenditures. The majority of the objects thus reduced, or altogether refused, were, in the subsequent years, provided for.

It is perfectly fair, Mr. President, to compare a series of years with an equal number of years; but it is neither fair nor just to select one year, and to compare it with another. I speak with reference to the annual ordinary expenditures. Would it be fair towards the late President Monroe, to compare the expenses of the last year of his Administration, amounting to $15,330,144, with the first year of Mr. Adams's Administration, which amounted only to 11,490,549 dollars? Would it be proper to compare the expenditures of the last year of Mr. Adams's Administration, which amounted to $13,296,041, with the first year of President Jackson's Administration, which was $12,660,490? Certainly not. To do so, would be committing an act of political injustice, and yet I have seen this done. But, if you compare the last year of Mr. Adams's Administration with the second year of President Jackson's, ($12,229,533,) little difference in the expenses will be found to exist.

I have, Mr. President, shown to my own satisfaction, and, I trust, to that of the Senate, that the expenses of the Government have not only not nearly doubled since the year 1821 —(unless it can be demonstrated that 13,296,041 dollars, being the expenditures in 1828, be nearly double the sum of $9,827,643, the amount of expenditures of 1822)—have not increased, but, on the contrary, have actually decreased. I have taken for the investigation of the subject the eight years of the late President Monroe's Administration, the four years of the Administration of Mr. Adams, and the

two years of President Jackson's Administration, to which the accounts are made up at the Treasury; and in this investigation and comparison I have carefully avoided every thing of a party complexion.

Having been a member of, and for several years Chairman of the Committee of Ways and Means in the House of Representatives, and having also been Chairman of the Committee on Finance in the Senate, I consider it an implied reflection on those committees that they had seen with indifference the expenses of the Government annually increasing, and actually nearly doubling in nine years. I have therefore deemed it incumbent upon me, in particular, to make the necessary investigation of this subject, and to present to the Senate the extensive view I have submitted in relation to a matter which has so frequently been misrepresented, and which I trust will be considered a sufficient apology for having occupied so much of the time of the Senate.

EXHIBIT, showing the expenditures of the Government of the United States, exclusive of the payments on account of the public debt, from the year 1817 to 1830, both inclusive.

Years.	*Expenditures.*	*Years.*	*Expenditures.*
1817	$15,454,609 92	1824	$15,330,144 31
1818	13,908,673 78	1825	11,490,459 84
1819	16,300,273 44	1826	13,062,316 27
1820	13,134,530 57	1827	12,653,095 65
1821	10,723,479 07	1828	13,296,041 45
1822	9,827,643 51	1829	12,660,490 62
1823	9,784,154 59	1830	13,229,533 33

Mr. BENTON rose in reply to the Senator from Maryland. Mr. B. said that a remark of his, in a former debate, seemed to have been the occasion of the elaborate financial statements which the Senator from Maryland had just gone through. Mr. B. said he had made the remark in debate; it was a general one, and not to be treated as an account stated by an accounting officer. His remark was, that the public expenditure had nearly doubled since he had been a member of the Senate. Neither the words used, nor the mode of the expression, implied the accuracy of an account; it was a remark to signify a great and inordinate increase in a comparatively short time. He had not come to the Senate this day with the least expectation of being called to justify that remark, or to hear a long arraignment of it argued; but he was ready at all times to justify, and he would quickly do it. Mr. B. said that when he made the remark, he had no statement of accounts in his eye, but he had two great and broad facts before him, which all the figures and calculations upon earth, and all the compound and comparative statements of arithmeticians, could not shake or alter, which were—first, that since he came into the Senate, the machinery of this Government was worked for between eight and nine millions of dollars; and, secondly, the actual payments for the last year, in the President's Message, were about fourteen millions and three-quarters. The sum estimated for the future expenditures, by the Secretary of the Treasury, was thirteen and a half millions; but fifteen millions were recommended by him to be levied to meet increased expenditures. Mr. B. said these were two great facts which he had in his eye, and which he would justify. He would produce no proofs as to the second of his facts, because the President's Message and the Secretary's report were so recently sent in, and so universally reprinted, that every person could recollect, or turn to their contents, and verify his statement upon their own examination or recollection. He would verify his first statement only by proofs, and for that purpose would refer to the detailed statements of the public expenditures, compiled by Van Zandt and Watterston, and for which he had just sent to the room of the Secretary of the Senate. Mr. B. would take the years 1822–'3; for he was not simple enough to take the years before the reduction of the army, when he was looking for the lowest expenditure. Four thousand men were disbanded, and had remained disbanded ever since; they were disbanded since he came into the Senate; he would therefore date from that reduction. This would bring him to the years 1822–'3, when you, sir, (the Vice President,) was Secretary of War. What was the whole expenditure of the Government for each of those years? It stood thus:

1822,	$17,676,592 63
1823,	15,314,171 00

These two sums include every head of expenditure—they include public debt, revolutionary and invalid pensions; three heads of temporary expenditure. The payments on account of the public debt in those two years, were—

In 1822,	$7,848,919 12
1823,	5,530,016 41

Deduct these two sums from the total expenditure of the years to which they refer, and you will have—

For 1822,	$9,727,673 41
1823,	9,784,155 59

The pensions for those years were—

	Revolutionary.	*Invalid.*	*Aggregate.*
1822,	$1,642,590 94	$305,608 46	$1,947,199 40
1823,	1,449,097 04	281,491 48	1,730,588 52

Now, deduct these pensions from the years to which they refer, and you will have just about $8,000,000 as the expense of working the machinery of the Government at the period which I had in my eye. But the pensions have not yet totally ceased; they are much diminished since 1822, 1823, and in a few years must cease. The revolutionary pensioners must now average seventy years of age; their stipends will soon cease. I hold myself well jus-

tified, then, in saying, as I did, that the expenditures of the Government have nearly doubled in my time. The remark had no reference to Administrations. There was nothing comparative in it; nothing intended to put up, or put down, any body. The burdens of the people is the only thing I wish to put down. My service in the Senate has extended under three Administrations, and my periods of calculation extend to all three. My opinion now is, that the machinery of this Government, after the payment of the public debt, should be worked for ten millions or less, and two millions more for extraordinaries; in all twelve millions; but this is a point for future discussion. My present object is to show a great increase in a short time; and to show that, not to affect individuals, but to show the necessity of practising what we all profess—economy. I am against keeping up a revenue, after the debt and pensions are paid, as large, or nearly as large, as the expenditure was in 1822, 1823, with these items included. I am for throwing down my load, when I get to the end of my journey. I am for throwing off the burden of the debt, when I get to the end of the debt. The burden of the debt is the taxes levied on account of it. I am for abolishing these taxes; and this is the great question upon which parties now go to trial before the American people. One word more, and I am done for the present. The Senator from Maryland, to make up a goodly average for 1822 and 1823, adds the expenditure of 1824, which includes, besides sixteen millions and a half for the public debt, and a million and a half for pensions, the sum of five millions for the purchase of Florida. Sir, he must deduct twenty-two millions from that computation; and that deduction will bring his average for those years to agree very closely with my statement.

Mr. HAYNE said that he had been called upon unexpectedly to answer for his remarks made a few days ago on another bill. If he had been aware of the intention of the gentleman from Maryland, he should have taken the pains to be prepared with statements to make out the correctness of the assertion alluded to. He said it must be recollected that it was not his assertion that the "expenses were nearly doubled." That had been the assertion of the gentleman from Missouri; and it had struck him so forcibly, that he had merely adverted to the language of that gentleman in his subsequent remarks, and added, that the expenditures of the Government had been annually increasing ever since he had been in the Senate. For this additional assertion, and for that alone, he stood responsible; and if he was mistaken in that remark, he was never so much mistaken in any point in the whole course of his life. He was still confident of its correctness; and he trusted that, before this matter was done with, he should be able to satisfy the Senate and the country that it was not he, but the Chairman of the Committee on Finance, who was mistaken. He did not intend to do this, however, by any comparison of a series of years and general averages, as that gentleman had done, but he should submit a resolution to the Senate, calling for the necessary information in relation to the expenditures during the time mentioned, from the proper officer of the department; and if the result of that statement did not make out his assertion to be correct, he would acknowledge his error, and abide by that decision; and he expected the gentleman from Maryland would do the same. Mr. H. said that if the event should show him in an error, it was that gentleman's fault, for he had led him into the error, if an error it was, which, however, he did not believe. He had led him to believe that there was an increased expenditure, by his repeated attempts to justify the fact, by urging the necessity of an increase to keep pace with the times. Sir, said Mr. H., can I forget that it had been publicly stated that, in the two first years of the present Administration, the expenditures of the Government on internal improvements were greater than during the whole four years of the late Administration? Can I forget the fact I have never seen denied by the friends of the present Administration, though repeatedly rung in their ears? But, on the contrary, they have uniformly maintained that this increase was occasioned by appropriations under the previous Administration. Can I forget that the gentleman from Maryland has told the Senate that it was the intention of the Committee on Finance to reduce the revenue to fifteen millions after the extinction of the public debt, because that sum would probably be wanted to meet the demands of the Government. Where, said Mr. H., shall we find the boasted diminution of the expenses of this Government? Shall we find it in the civil list, or diplomatic intercourse? Shall we find it in the army, the navy, or in any department of the Government? On the contrary, has it been our constant policy to create new offices, and enlarge the salaries of those already existing?

But, said Mr. H., we will have this matter determined by an appeal to facts which cannot deceive us, which the proposed resolution will elicit.

How can the gentleman suppose that I should imagine the expenditures were not increased, in the face of all those facts which the gentleman himself has admitted? Have I not, said Mr. H., risen in my place, repeatedly, to oppose the various new appropriations which have been called for, and received for answer that the increased wants of our growing country required them? If mistaken, therefore, the fault lies upon those who, having our finances in charge, could long since have corrected the supposed error. He was persuaded, however, there was no error—there could be none. Indeed, he understood the gentleman himself to show an average increase of the expenditures. And how could it be otherwise?

The gentleman from Missouri, in referring back to the documents this morning, states the average expenditures, for some years back, at nine millions; the Senator from Maryland gives the average of the few last years at twelve millions; and that Senator himself, only a few days ago, set down the future average at fifteen millions. And yet we are gravely told our expenses are not increasing.

FRIDAY, January 20.

Bank of the United States—Illegal Currency.

Mr. BENTON rose to ask leave to introduce the following resolution, of which he had given notice some days ago, viz:

A joint resolution declaratory of the meaning of the charter of the Bank of the United States on the subject of the paper currency to be issued by the Bank.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the paper currency, in the form of orders, drawn by the presidents of the offices of discount and deposit on the cashier of the Bank of the United States, is not authorized by any thing contained in the charter, and that the said currency is, and is hereby declared to be, illegal, and that the same ought to be suppressed.

Mr. BENTON rose to ask leave to bring in his promised resolution on the state of the currency. He said he had given his notice for the leave he was about to ask, without concerting or consulting with any member of the Senate. The object of his resolution was judicial, not political; and he had treated the Senators, not as counsellors, but as judges. He had conversed with no one, neither friend nor adversary; not through contempt of counsel, or fear of opposition, but from a just and rigorous regard to decorum and propriety. His own opinion had been made up through the cold, unadulterated process of legal research; and he had done nothing, and would do nothing, to prevent, or hinder, any other Senator from making up his opinion in the same way. It was a case in which politics, especially partisan politics, could find no place; and in the progress of which every Senator would feel himself retiring into the judicial office—becoming one of the *judices selecti*—and searching into the stores of his own legal knowledge, for the judgment and the reasons of the judgment which he must give in this great cause, in which a nation is the party on one side, and a great moneyed corporation on the other. He (Mr. B.) believed the currency, against which his resolution was directed, to be illegal and dangerous; and so believing, it had long been his determination to bring the question of its legality before the Senate and the people; and that without regard to the powerful resentment, to the effects of which he might be exposing himself. He had adopted the form of a declaratory resolution, because it was intended to declare the true sense of the charter upon a disputed point. He made his resolution joint in its character, that it might have the action of both Houses of Congress, and single in its object, that the main design might not be embarrassed with minor propositions. The form of the resolution gave him a right to state his reasons for asking leave to bring it in; the importance of it required those reasons to be clearly stated. The Senate, also, has its rights and its duties. It is the right of the Senate and House of Representatives, as the founder of the bank corporation, to examine into the regularity of its proceedings, and to take cognizance of the infractions of its charter; and this right has become a duty, since the very tribunal selected by the charter to try these infractions had tried this very question, and that without the formality of a scire facias, or the presence of the adverse party, and had given judgment in favor of the corporation; a decision which he (Mr. B.) was compelled, by the strongest convictions of his judgment, to consider both as extra-judicial and erroneous.

The resolution, continued Mr. B., which I am asking leave to bring in, expresses its own object. It declares against the legality of these orders, AS A CURRENCY. It is the currency which I arraign. I make no inquiry, for I will not embarrass my subject with irrelevant and immaterial inquiries—I make no inquiry into the modes of contract and payment which are permitted, or not permitted, to the Bank of the United States, in the conduct of its private dealings and individual transactions. My business lies with the currency; for, between public currency and private dealings, the charter of the bank has made a distinction, and that founded in the nature of things, as broad as lines can draw, and as clear as words can express. The currency concerns the public; and the soundness of that currency is taken under the particular guardianship of the charter; a special code of law is enacted for it: private dealings concern individuals; and it is for individuals, in making their bargains, to take care of their own interests. The charter of the Bank of the United States has authorized, but not regulated, certain private dealings of the bank; it is full and explicit upon the regulation of currency. Upon this distinction I take my stand. I establish myself upon the broad and clear distinction which reason makes, and the charter sanctions. I arraign the currency! I eschew all inquiry into the modes of making bargains for the sale or purchase of bills of exchange, buying and selling gold or silver bullion, building houses, hiring officers, clerks, and servants, purchasing necessaries, or laying in supplies of fuel and stationery.

A preliminary inquiry might have been resorted to, and was for some time intended, to know from the bank directory whether these orders were issued as a currency under the charter, and what exemptions were claimed for them from the restrictions provided in the

charter, for a currency of promissory notes. But this preliminary inquiry has become unnecessary. A decision has been made in a high branch of the federal judiciary—the United States circuit court in Philadelphia—affirming the legality of this species of currency, and stating the exemptions claimed for it; and this decision has been received with a degree of approbation by the bank directory, which announces it to be accordant with their own opinions. Inquiry of the directory is, therefore, unnecessary. A resort to the opinion of the court, and that opinion has been authoritatively published, may be considered as the answer of the bank, and, what is far more material, as the law of the land until reversed.

Here is the opinion, that part of it which relates to these orders as a currency; for I omit all that relates to the trial of the prisoner for the counterfeiting one of these orders.

[Here follows the opinion of the court, argumentatively delivered to sustain its correctness.]

After reading the extracts, Mr. B. continued. I take the substance of this decision, Mr. President, to be—

1. That these branch bank orders are legal currency, under the charter of the Bank of the United States.

2. That the bank may lawfully issue this description of currency to the whole amount of its capital stock.

3. That this currency is free from every regulation, restriction, limitation, and provision, contained in the charter, except the single limitation as to the maximum amount to be issued, to wit, thirty-five millions of dollars.

4. That the bank may employ what agents she pleases in signing and issuing this currency.

I take this to be the substance of the decision. Justice to that decision, and the fair conducting of my own argument, will require me to examine the grounds upon which the court proceeded. These grounds are found in two clauses of the charter; one clause in the 18th section; the other in the 8th fundamental article of the constitution of the bank. The penal clause in the 18th section against counterfeiting "checks or orders," and the phrase "other contract," in the 8th fundamental article, comprise those grounds. I will examine each in its turn; but must first make a stand in the name of all that is safe and sure in the administration of law, protesting, as I do hereby protest, against going into a *penal* section, or into the *construction* of a phrase, to find a power to issue currency, and that without restrictions, when the charter had given that power in the proper place in express words, and subject to numerous and vital restrictions. I make this protest, not from the least apprehension of finding in a penal clause, or in the construction of a detached phrase, the great power for the exercise of which the bank was created, that of issuing a paper currency to the people of these States, but as an act of justice to the constitution of the bank, to its cautious prohibitory preamble, and to its seventeen fundamental articles. I make it in the name and upon the behalf of the lawful rights of other parts of the charter. Let us now proceed to the examination; and, first, let us read this 18th section, the whole of it, as the only fair way to find its meaning.

[The section read.]

I do deny, Mr. President, that any power, of any kind, is given to the bank by this section. It is a mere provision to punish the violation of existing rights. So far as the issues of bills or notes are mentioned, it is a recital of what the bank was authorized to do in the 12th fundamental article of its constitution; so far as checks and orders are mentioned, it is a recital of the pre-existing right which every depositor possesses. The object of the section is to provide for the security of existing rights; namely, the chartered right of the bank to issue bills or notes, and the inherent right of depositors to draw for their own money. This is the object of the section; and the violation of either of these rights is made felony. Both rights are protected, but they are not granted; neither are they confounded. The distinction is clear between them, between the currency which is to issue from the bank, and the orders which are to be drawn upon it. The separation is complete, the contrast is perfect, the antithesis is regular, the contradistinction is manifest, between these two classes of paper. The whole frame of the section, the structure of every member of the long sentence which composes it, the natural and obvious meaning of every word in every sentence, establishes and defends this clear and emphatic distinction. Five times in five different members of the sentence, the same form of expression, the same order of construction, and the same repetition of words regularly occur. Five times the line is drawn, the distinction is set up, between the bills or notes which are to be issued by order of the bank, and the checks and orders which are to be drawn upon it. The two classes of paper are kept distinct, and cannot be confounded. Let any gentleman try. Let him include, if he can, the words "checks and orders" under the action of the verb which governs the issuing of the *bills or notes* of the bank. The thing cannot be done. It is a grammatical impossibility. I repeat it, the clear, undoubted object of the section is, not to grant powers, but to protect rights. Its object is penal, not concessive; to punish, not to grant.

This is my view, Mr. President, of the 18th section. Does any gentleman doubt the correctness of that view? Then let him follow me into the next section—the 19th—still occupied with the crime of counterfeiting, and taking up the inchoate class of offences involved in the process of perpetrating the crime. The authorized currency of all banks, in all countries, is protected from the process, from the

progressive course, of being counterfeited, as well as from the consummation of the crime itself; but this protection is never extended to private and individual papers. A man is punished for having in his possession, with intent to use it unlawfully, the plate from which bank notes are struck, the notes themselves in blank, and even the kind of paper which is used for bank notes. Not so in the case of private or individual writings. The reason is obvious. Banks have peculiar plates and papers for their notes which are to constitute currency; neither individuals nor banks, have any thing peculiar for their private and individual writings. The plate and paper with which a bank note is to be counterfeited, can be known and identified as such; the goose quill pen, the common types, and the common writing paper, which are used for all the ordinary transactions of life, cannot be known or identified. Upon this distinction turns all the law upon the subject of punishing the inchoate offence of counterfeiting; upon this distinction turns the 19th section of the charter; upon this distinction it is that the currency of the bank, its bills or notes, are protected from the process of being counterfeited, and the orders and checks of depositors are not noticed. Listen to the section.

[The section read.]

What fatuity, or unkindness, in the framers of this charter! What inattention to this constructive currency, created in the 18th section, and abandoned in the 19th! Eight times the bills or notes, issued by order of the bank, are named and protected. Eight times the checks and orders are passed over without a word. No protection for them against the process of being counterfeited. The plates, the blanks, the paper, for their imitation, may be paraded in the face of the world. The whole process may be carried on in the face of the bank; and no legal authority to interrupt the forgers, to seize their unfinished work, or to arrest their persons. Can any thing be more emphatic of the sense of the Congress which framed the charter? Could words be more expressive than this silence? Could a positive declaration fix these checks and orders more completely in the class of those private writings which have no peculiar plates, no blanks, no peculiar paper?

The second ground on which the court relied, is the phrase, "other contract," as used in the 8th fundamental article of the constitution of the bank. In resorting to this phrase, the court has at least got into the right chapter, but missed the verse; it has got into the constitution; it has got among the seventeen articles; but it has not got to the article which grants powers, but the one which recites, and that for the purpose of limitation, the powers which are elsewhere expressly granted. To crown this error, the court has again had recourse to construction, and has given an import and meaning to the phrase "other contract," which it cannot be made to endure, either in common parlance, or in legal acceptation, nor without reducing the rest of the charter to a blank. We will read the article.

[The article read.]

What is the meaning of this article? Is it to grant authority to the bank to make bonds, issue bills or notes, and form other contracts? No, sir; authority to do all these things is elsewhere granted, namely, in the 12th fundamental article, to make bonds and issue bills or notes; in the tenth section, to form other contracts in dealing and trading in bullion and bills of exchange; and in other places, to do other things. The manifest object of this eighth section is to prohibit the bank from owing more debts, at one time, on all these accounts, than the amount of the capital stock; and to make the directors personally liable if they exceeded that amount. The words "other contract" were evidently intended to include the individual dealings of the bank; to add its private debts to its public ones; and to limit the whole to the amount of its capital. Will any person undertake to derive the right of the bank to make bonds, and issue bills or notes, upon the recital of the names of these instruments in this eighth article, and then argue that they are free from all limitations, except the single one as to maximum amount found in that article? Certainly not, and yet this would be the precise mode of reasoning with respect to the phrase "other contract," if it is to be treated as a grant of power, instead of a reference to the various contracts for bullion, bills of exchange, buildings, salaries, expenses, &c., which the bank was elsewhere authorized to make, and for the form or terms of which contracts the charter nowhere made any regulations or provisions. I repeat it, bonds, bills, or notes, are merely recited in this article for the purpose of adding a new limitation and a new penalty; reference to *other contracts* is made for the purpose of including them in the same limitation, and subjecting them to the same penalty. This is the construction which satisfies the phrase; which gives it a full and natural operation, and that without conflicting with any other part of the charter, much less reducing all the rest to a blank.

I have given to this phrase, Mr. President, the meaning which fairly and naturally belongs to it, and which harmonizes it with every other part of the charter. This is what the books tell us it is the duty of courts to do in construing statutes. I will now take three specific objections to the court's construction, and show it to be erroneous in every point of view in which it can be examined:

1. I object to it because it authorizes an issue of *currency upon construction.* The issue of currency, sir, was the great and main business for which the bank was created, and which it is, in the twelfth article, expressly authorized to perform; and I cannot pay so poor a com-

pliment to the understandings of the eminent men who framed that charter, as to suppose that they left the main business of the bank to be found, by construction, in an independent phrase, and that phrase to be found but once in the whole charter. I cannot compliment their understandings with the supposition that, after having authorized and defined a currency, and subjected it to numerous restrictions, they had left open the door to the issue of another sort of currency, upon construction, which should supersede the kind they had prescribed, and be free from every restriction to which the prescribed currency was subject.

2. I object to the court's assumption that these orders are contracts; and this objection leads to a definition, and to the recollection of our early reading, when we were apprentices to the law. What is a contract? The books tell us it is an agreement, upon a sufficient consideration, to do, or not to do, a particular thing. Now, bring these orders to the test of this definition; and for that purpose let us read one:

"Cashier of the Bank of the United States,
Pay to Jas. L. Smith, or order, five dollars.
Office of discount and deposit in Utica,
The 3d day of September, 1831.
JOHN B. LEVING, *President.*
"N. V. GRAZIER, *Cashier.*"

And on the back these words:

"Pay to the bearer. JAS. L. SMITH."

Here is no agreement, sir! No consideration expressed or understood; no promise or undertaking to do, or not to do, any thing whatever. It is literally an order, such as one neighbor gives to another, and governed by the same law. It is the very opposite of a contract, for it is a command; it is the opposite of a debt, for it implies the extinction of one. It is a mandate, and that an imperious one, from a gentleman in Utica, whose name I cannot read, to a gentleman in Philadelphia, who is not named at all, to pay five dollars to Mr. Jas. L. Smith, or to the person he shall name. Call this a contract? If so, Mr. President, those who studied law twenty-five years ago must burn their books, and recommence in the new school. The only species of contract that can attach to it is in the implied one which the law creates between the giver and receiver of the order; and that is an implied promise, on the part of the giver, that he will pay it if the cashier in Philadelphia does not, provided the receiver of the order will lose no time in going after the money, and bringing the order back if he does not get it.

This finishes, Mr. President, the examination which I have felt it proper to make into the grounds of the decision pronounced by the federal court in Philadelphia. I will now take up the constitution of the bank, and bring this constructive currency to the ordeals of prohibitions, as well as of the grants to be found in that instrument. The Congress of 1816 gave to the Bank of the United States a constitution, with a preamble to it, and seventeen fundamental articles in it; and if the bank has construed itself out of this congressional constitution, it may seem to some to be an act of retributive justice on the Congress for construing itself out of the Constitution of the United States to give a constitution to the bank. We will see. The preamble stands at the head of the eleventh section, and runs thus:

[The limitations, restrictions, and provisions of the charter all read.]

Now, Mr. President, if there is any power in words, any virtue in language, any force or strength in legal enactments, any capacity in the Congress of the United States to bind the Bank of the United States; if the sarcasm of the Scythian is not true of this young republic as well as of the old monarchies to which it was applied, *that laws are cobwebs, which catch the weak flies, and let the strong ones go through*, then are these orders excluded from all revenue payments to the United States.

Let us recapitulate. Let us sum up the points of incompatibility between the characteristics of this currency, and the requisites of the charter: let us group and contrast the frightful features of their flagrant illegality. 1. Are they signed by the president of the bank and his principal cashier? They are not! 2. Are they under the corporate seal? Not at all! 3. Are they drawn in the name of the corporation? By no means! 4. Are they subject to the double limitation of time and amount in case of credit? They are not; they may exceed sixty days' time, and be less than one hundred dollars. 5. Are they limited to the minimum size of five dollars? Not at all! 6. Are they subject to the supervision of the Secretary of the Treasury? Not in the least! 7. The prohibition against suspending specie payments? They are not subject to it! 8. The penalty of double interest for delayed payment? Not subject to it! 9. Are they payable where issued? Not at all, neither by their own terms, nor by any law applicable to them! 10. Are they payable at other branches? So far from it, that they were invented to avoid such payment! 11. Are they transferable by delivery? No; by endorsement! 12. Are they receivable in payment of public dues? So far from it, that they are twice excluded from such payments by positive enactments! 13. Are the directors liable for excessive issues? Not at all! 14. Has the holder a right to sue at the branch which issues the order? No, sir, he has a right to go to Philadelphia, and sue the directors there! a right about equivalent to the privilege of going to Mecca to sue the successors of Mahomet for the bones of the prophet! Fourteen points of contrariety and difference. Not a feature of the charter in the faces of these orders. Every mark, a contrast; ever lineament, a contradiction; all announcing, or rather denouncing, to the world the

positive fact of a spurious progeny; the incontestable evidence of an illegitimate and bastard issue.

I have now, Mr. President, brought this branch bank currency to the test of several provisions in the charter, not all of them, but a few which are vital and decisive. The currency fails at every test; and upon this failure I predicate an argument of its total illegality. Thus far I have spoken upon the charter and have proved that if this currency can prevail, that instrument, with all its restrictions and limitations, its jealous, prohibitory constitution, and multiplied enactments for the safety of the public, is nothing but a blank piece of paper in the hands of the bank. I will now have recourse to another class of arguments—a class extrinsic to the charter, but close to the subject—indispensable to fair examination, and directly bearing upon the illegal character of this currency.

1. In the first place, I must insist that these orders cannot possibly serve for currency, because they are subject to the law of endorsable paper. The law which governs all such paper is too universally known to be enlarged upon here. Presentation for acceptance and payment, notice of default in either, prompt return of the dishonored paper, and all this with rigorous punctuality, and a loss of recourse for the slightest delay at any point, are the leading features of this law. Now it is too obvious that no paper subject to the law of endorsement can answer the purposes of circulation. It will die on the hands of the holders while passing from one to another, instead of going to the place of payment. Now it is incontestable that these orders are instruments negotiable by endorsement, and by endorsement alone. Whether issued under the charter, or under the general laws of the land, they are still subject to the law of endorsable paper. They are the same in either case as if drawn by one citizen upon another. And this is a point which I mean to make clear: for many worthy people believe there is some peculiar law for bank paper, which takes it out of the operation of the general laws of the land. Not so the fact. The twelfth fundamental article of the bank constitution declares that the bills or notes to be issued by the bank shall be negotiable in the same manner as if issued by a *private person;* that is to say, those payable to a named person or his *order*, by *endorsement*, in like manner and with the *like effect* as foreign bills of exchange; and those made payable to *bearer* shall be negotiable by *delivery* alone; in the same manner, we may add, as a silver dollar. So much for these orders, if drawn under the charter; if not drawn under it, they are then issued under the general law of the land or without any law at all. Taken either under the charter or out of it, it comes to the same point, namely, that these orders are subject to the same law as if drawn by one private person upon another. This is enough to fix their character, and to condemn them as a circulating medium; it is enough for the people to know; for every citizen knows enough of law to estimate the legal value of an *unaccepted order*, drawn upon a man five hundred or one thousand miles off! But it has the word *bearer* on the back! Yes, sir, and why not on the face as easily as on the back? Our schooltime acquaintance, Mr. President, the gentleman from Cork, with his coat buttoned behind, had a sensible, and, I will add, a lawful reason for arraying himself in that grotesque habiliment; but what reason can the bank have for putting bearer on the back of the order, where it has no effect upon its negotiable character, and omitting it on the face, where it would have governed that character, and secured to the holder all the facilities for the prompt and easy recovery of the contents of a paper transferable by mere delivery? The only effect of this preposterous or cunning endorsement must be to bamboozle the ignorant—pardon the low word, sir—to bamboozle the ignorant with the belief that they are handling a currency which may at any time be collected, without proof, trouble, or delay, while in reality it is a currency which reserves to the bank all the legal defences which can be set up to prevent the recovery of a parcel of old, unaccepted, unpresented, unauthorized bills of exchange.

2. I take a second exception to these orders as a currency. It is this, that being once paid, they are done with. A note transferable by delivery, may be reissued, and its payment demanded again, and so on forever. But a bill of exchange, or any paper subject to the same law with a bill of exchange, is incapable of reissue, and is payable but once. The payment once made, extinguishes the debt; the paper which evidenced it is dead in law, and cannot be resuscitated by any act of the parties. That payment can be pleaded in bar to any future action. This law applies to checks and orders as well as to bills of exchange; it applies to bank checks and orders as well as to those of private persons, and this allegation alone would annihilate every pretension of these branch bank orders to the character of currency.

3. I take a third objection to this constructive currency. It is this, that these orders are not evidenced by any act or sign which can import the assent of the corporators to their issue, or bind the corporate effects for the payment of money. The Bank of the United States is a corporation aggregate; it is composed of various members; and the assents of these members can only be evidenced, and their effects bound, by modes of acting known to the law. The common seal is the evidence of assent at common law; signatures of natural persons are sometimes, and in some instances, substituted by statute. Thus it is with the Bank of the United States. The seal is to be used in some cases; signatures in others. Bonds are to be sealed, not signed; bills or notes are to be signed, not sealed. The common seal is the

general mode of evidencing the acts of the corporation; signatures are the exception, and can only be used as the substitute for the seal in the cases specified in the exception. The words of the charter in the twelfth article are pregnant with law meaning, and import a clear declaration that without a statutory substitute the common seal would be necessary to bind the corporate effects. The words are these: "The bills or notes signed by the president, and countersigned by the principal cashier or the treasurer, *although not under the seal of the said corporation, shall be binding and obligatory upon the same.*" This is law, not law enacted, but law recognized by the charter. The seal must be used where the substitute is not allowed, and when used it is the equivalent of the seal, and no more.

4. I take a fourth objection to these currency orders, extrinsic to the charter. It is this: That the orders are not drawn in the *corporate name* of the Bank of the United States. A corporation, Mr. President, must have a name, as well as a natural person. It is an artificial person, constituted of a great number of natural persons, always varying. The individual names of the corporators cannot be used; but a name must be used, and that name can be no other than that which is bestowed upon it by the founder or the Legislature; and this name must be used in all corporate acts. Sign who may, affix the seal who may, still the promise made, the act, the matter, the thing done, or promised to be done, must be done or promised in the *name* of the corporation. By that name it must call and it must answer; sue and be sued; buy and sell; have and hold; give and take; bind and loose. Slight variations, as of a letter or a syllable, may be tolerated in the case of ancient corporations whose origin is not known; but no variation is permitted in the case of modern corporations, whose origin is within the memory of man, that is to say, legal memory, which dates from the first of Richard II. So say all the books. Let us see some of them.

Lord Coke, in his tenth report:

"The name of incorporation is a proper name, or name of baptism; and, therefore, when a private founder gives his college or hospital a name, he does it only as a godfather, and by that same name the King baptizes the incorporation."

Sir William Blackstone, in his commentaries:

"When a corporation is created, a name must be given to it; and by THAT *name* ALONE it must sue and be sued, and do all legal acts; though a very minute variation therein is not material. Such a name is the very being of its constitution; and, though it is the will of the King that creates the corporation, yet the *name* is the knot of its combination, without which it could not perform its *corporate* functions."

Matthew Bacon, in his abridgment:

"There is a difference between an ancient corporation, and a corporation newly created; for an ancient corporation, *by use*, may have a special name differing in substance; but otherwise of a corporation created within memory; for this regularly can only have the name by which it is instituted."

So say the English books. What says the charter of the Bank of the United States? Has it failed to give a name? or has it granted a dispensation of its use? Neither. It has given a name; and it has ordered that name to be used. The seventh section is wholly taken up with this matter. It declares the name of the corporation to be: "*The President, Directors, and Company of the Bank of the United States.*" This is the name. Now for the use. "And by THAT *name* shall be, and hereby are, made able and capable in law, to have, &c., to sell, &c., to sue, &c., to make and use a common seal, &c., to ordain by laws, &c., and generally to do and execute all and singular the *acts, matters*, and *things* which to *them* it shall or may *appertain* to do, &c."

This is corroboration, Mr. President, instead of dispensation, of the common law. And now, sir, I must be permitted to say that I see the advocates of this order currency penned up in the same narrow corner in which I placed them half an hour ago, and from which, I apprehend, they will never come forth. They must say that the issue of this currency is not an *act*, is not a *matter*, is not a *thing*, appertaining to the bank to do, and, therefore, need not be done in the name of the corporation. They must say this, or give up the question. For these orders are not drawn in the name of the corporation, nor upon it. The name of the corporation, the baptismal name of the artificial person, begot by the kingly power of the Congress of 1816, "the president, directors, and company of the Bank of the United States," is not upon the paper, neither as drawer or drawee, payer or payee, endorser or endorsee; no, not even as acceptor in the character of friend, to save the honor of the drawer. And I hold this currency, for that single reason alone, to be invalid and illegal; as much so as the acts of this Congress would be if made in the name of the District of Columbia, instead of the name of the United States of America, and signed by the mayor and aldermen, instead of the presiding officers of the two Houses and the President of the United States.

But the federal court in Philadelphia has decided, and that, as it would seem, upon the authority of the case of the King *vs.* Bigg, that bank currency may be issued by agents, and that these agents may be appointed at the will of the bank, and without seal, and that the court will presume these to be agents whose orders have been paid. We will see that case, not in the 1st Sir John Strange, where it is briefly and imperfectly reported, but in 3d Peere Williams, where the whole case is fully shown. It was a criminal case, tried at the Old Bailey as far back as the year 1717. The indictment set forth:

[The indictment read.]

This is the case upon which, from the similarity of language and sentiment, the opinion of the federal court in Philadelphia seems to have turned; all that part of it, at least, which went to support the Bank of the United States in employing agents to issue currency, and making the bank liable for the currency so issued. It seems to support the court, but *cognoscere causas rerum*—to know the causes of things—is as indispensable in the science of the law, as it is desirable in the mysteries of nature. Now, sir, observe with what ease one single word will change the whole direction of Bigg's case, will take it from the court, and turn it against the court, and annihilate all the pretensions of the United States Bank to issue currency through agents. The case of Bigg turned upon British statute law; upon an act of Parliament made in 1697, in amendment of the charter of the Bank of England, such as the Bank of the United States applied for here and could not obtain. This is the clause:

"That the forging or counterfeiting of the common seal of said incorporation of the governor and company, or of any sealed bank bill made or given out in the name of the said governor and company, for the payment of any sum of money, or of any bank note of any sort whatever, *signed for the said governor and company of the Bank of England*, or the altering or rasing any endorsement on any bank bill or note of any sort, shall be, and is hereby, declared and adjudged to be hung, without benefit of clergy."

This is the act under which Bigg was indicted. The note which he was charged with altering, or rather erasing a credit from it, was signed by Joshua Adams, and Adams was appointed under the clause which authorized the Bank of England to get their notes *signed for the company*. Having a right to sign notes by an agent, and the notes signed by Adams for the company having been always paid at bank, the court would not look into his appointment; they would presume him to be the agent of the bank, and to be duly appointed; that is, under seal. Now, apply this to the branch bank presidents. Who authorized them to sign the currency of the Bank of the United States? Where is the statute giving the bank power to use agents for signing? There is none. The power was applied for in 1821, and refused; and now it must require a power of presumption, equal to the power of legislation, to presume that the branch bank presidents are agents of the United States bank to sign currency, when the bank is not allowed to have any agent at all for such a purpose.

The case of Bigg, Mr. President, shows five points of difference between the notes he signed and these branch bank orders, and every point fatal to the orders.

First. The Bank of England had statutory authority to appoint an agent to sign their notes; the Bank of the United States has no such authority with respect to their currency.

Secondly. The agent of the Bank of England only signed the notes; the branch bank presidents both sign and issue these orders.

Thirdly. The Bank of England's agent signed the notes for and in behalf of the governor and company of the Bank of England; the branch bank presidents sign in their own names, and on their own account.

Fourthly. The notes signed by Adams were drawn in the corporate name of the Bank of England, and contained the promise of the governor and company of that bank, by their corporate style and name, to pay the amount of the note to the bearer, on demand: the orders in question are not drawn in the corporate name of the Bank of the United States; they contain no promise or acceptance of the president, directors, and company of the Bank of the United States to pay any thing, to anybody, at any time whatever.

Fifthly. The notes signed by Adams were the real promissory notes of the Bank of England, such as the charter expressly authorized the bank to issue for currency; these orders, signed and issued by the branch bank presidents, are not authorized to be issued as currency by any clause in the charter of the Bank of the United States.

Upon these five points of difference, each of them sustained in point of fact, 1, by the indictment against Bigg; 2, by the special verdict; 3, by the argument before the court; 4, by the act of Parliament of 1697; and, 5, by the judgment of the court, I must insist that the case of Bigg is the most complete and perfect authority for the condemnation of this branch bank currency, which the wit of man could have devised. Yes, sir, it is omnipotent. It opens a battery of thunder and lightning upon the Philadelphia decision. It pulverizes that decision. Yet the bank is triumphant! It carries all before it! It bestrides, as a Colossus, the prostrate charter which Congress gave it. It claps a foot upon a word here, and a phrase there—rears her gigantic form above all law, and boldly places an empire at defiance! And yet there are people to talk about new restrictions to bind this gigantic power; as if it was in the destiny of man that the weaker should ever bind the stronger party. No, sir; we are engaged with the real presence of that fabled monster—once believed to be the fabulous creation of frenzied poets—that monster which no art nor power could ever bind! which changed his form, at will, from man to beast—from lion to serpent—from serpent to water—from a river of flowing water to a column of blazing fire; and thus eluded, in the act of receiving them, the grasp and catch of every chain that was thrown upon him.

Mr. President, this finishes my argument to show the illegality of this species of currency; and believing the fact of this illegality to be fully and incontrovertibly established, I might here terminate my labor, and rest my case. But, sir, I deem nothing in human operations sufficiently known until the reasons of it are

known. I will, therefore, advance a step further, and lay open the reasons and causes for the invention of these branch bank orders, and for their imposition upon the public, to the exclusion, in many States, of the lawful promissory notes of the president, directors, and company of the Bank of the United States. To do this I shall have recourse to evidence, not to argument; and to make that evidence the more easily intelligible, I will rapidly review the three great points of history in the career of this bank; namely, 1. Its apparent but delusive prosperity at the start; 2. Its sudden engulfment in the vortex of bankruptcy; 3. Its apparent but delusive prosperity now.

The bank went into operation with the beginning of the year 1817; established eighteen branches, half a dozen of which in the South and West; issued its own notes freely, and made large issues of notes payable at all these branches. The course of trade carried the branch notes of the South and West to the Northeast; and nothing in the course of trade brought them back to the West. They were payable in all demands to the Federal Government; merchants in Philadelphia, New York, and Boston received them in payment of goods, and gave them—not back again in payment of Southern and Western produce—but to the collectors of the customs. Become the money of the Government, the bank had to treat them as cash. The fourteenth section of the charter made them receivable in all payments to the Government, and another clause required the bank to transfer the moneys of the Government to any point ordered; these two clauses (the transfer clause being harmless without the receiving one contained in the fourteenth section) laid the bank under the obligation to cash all the notes of all the branches wherever presented; for, if she did not do it, she would be ordered to transfer the notes to the place where they were payable, and then to transfer the silver to the place where it was wanted: and both these operations she had to perform at her own expense. The southern and western branch notes flowed to the Northeast; the gold and silver of the South and West were ordered to follow them; and, in a little while, the specie of the South and West was transferred to the Northeast; but the notes went faster on horses and in mail stages than the silver could go in wagons; and the parent bank in Philadelphia, and the branches in New York and Boston, exhausted by the double operation of providing for their own, and for southern and western branch notes besides, were on the point of stopping payment at the end of two years. Mr. Cheves then came into the presidency; he stopped the issue of southern and western branch paper, and saved the bank from insolvency! Application was then made to Congress to repeal the fourteenth section of the charter, and thus relieve the bank from this obligation to cash its notes everywhere. *Congress refused to do so.* Application was made at the same time to repeal a part of the twelfth fundamental article of the constitution of the bank, for the purpose of relieving the president and principal cashier of the parent bank from the labor of signing the five and ten dollar notes. *Congress refused that application also.* And here every thing rested while Mr. Cheves continued president. The southern and western branches ceased to do business *as banks;* no bank notes or bills were seen but those bearing the signatures of the president and his principal cashier, and none of these payable at southern and western branches. The profits of the stockholders became inconsiderable, and the prospect of a renewed charter was lost in the actual view of the inactivity and uselessness of the bank in the South and West. Mr. Cheves retired. He withdrew from an institution he had saved from bankruptcy, but which he could not render useful to the South and West; and then ensued a set of operations for enabling the bank to do the things which Congress had refused to do for it; that is to say, to avoid the operation of the fourteenth section, and so much of the twelfth fundamental article as related to the signature of the notes and bills of the bank. These operations resulted in the invention of the *branch bank orders.* These orders, now flooding the country, circulating as notes, and considered everywhere as gold and silver, (because they are *voluntarily* cashed at several branches, and *erroneously* received at every land office and custom-house,) have given to the bank its present apparent prosperity, its temporary popularity, and its delusive cry of a sound and uniform currency. This is my narrative; an appalling one, it must be admitted; but let it stand for nothing if not sustained by the proof. Here, then, is the proof!

[Extracts read from Mr. Cheves's report.]

This was Mr. Cheves's report to the stockholders; they consulted as to the means of relief, especially on the great points of signing the currency, and getting rid of the fourteenth section. The result was a conviction that Congress alone could relieve them; that legislative remedies were indispensable; and a memorial was draughted accordingly. Its introductory paragraph is remarkable, and deserves to be read.

"That the institution of which they are managers is laboring under several grievances, not only injurious to the bank, but, as they respectfully conceive, to the nation also, which call for *legislative* relief; some of these arise from the *original omissions* of appropriate legal enactments, others from certain *provisions* of the charter, not suited to the *condition* and *circumstances* of the bank, and *one* of very important character, from a regulation concerning the *fiscal receipts* of the Government of the Union. For the *remedy* of these *evils*, the stockholders of the Bank of the United States *can only look to Congress.*"

Mark, I beseech you, Mr. President, the phraseology of this memorial, and consider who was the man that signed it, and most probably

drew it. It complains of original omissions, and existing provisions in the charter, for the remedy of which legislative aid is prayed, and Congress declared to be the only power that can grant it. One of the evils thus complained of was, the labor imposed upon the president of the bank, and the principal cashier, in signing the five and ten dollar notes; another was the difficulty of providing payment for the same note at the branch bank which issued it, and at the other branches to which it might be carried in the course of trade and business. The memorial was accompanied by an argumentative remonstrance, strongly urging Congress to grant the relief prayed for. The appointment of an agent and register to sign notes was urgently pressed, for the purpose of relieving the president from manual labor, that he might give his attention to the higher and more important business of the bank, but to no purpose; Congress refused the request. The other branch of the memorial shared the same fate. It was the main application, and every argument was used to induce Congress to grant it, but without effect. Mr. Cheves represented, and most truly, that the bank could not provide payment for the same note, at the same time, in eighteen different places. His language was: "*To-day, a branch shall have a million of capital; in three months it may be without a cent.*" All this was true, is now true, and forever will be true. But the bank was established to furnish a *sound and uniform* currency; that soundness and uniformity could only be attained by cashing the notes wherever they were presented; if that could not be done, *the public object for establishing the bank had failed;* and Congress refused to let its branches degenerate into local institutions, issuing a local paper for the private gain of the stockholders, when the great public object was no longer attainable. The refusal was peremptory; and as the bank could not go on according to the charter, and cash its notes at all the branches, the branches were shut up. They issued no notes; made few or no discounts; confined themselves to dealing in exchange, and collecting the gold and silver of the South and West, and remitting it to the parent bank. This state of things continued about seven years, and during all that time the bank was forfeiting its charter for *non-user*, that is to say, for not using its powers for the public and beneficial object for which it was granted. This was an unprofitable season for the stockholders; dividends were small; the odium of the institution great; its inability to furnish a sound and uniform currency admitted; the charter daily liable to forfeiture; and all hopes for its renewal perfectly desperate. In these circumstances action became indispensable. It was neck or nothing. Inaction was death; action could be no worse, and might lead to life. Some new remedy must be tried; some daring experiment must be adventured; however doubtful the issue, however hazardous the trial, the venture must be made; it was a case for *digitalis!* and the venture was made. What that venture was, and how wonderfully it has succeeded, to the astonishment of its delighted protectors, I will now show you in the words of the present president of the bank:

MR. BIDDLE'S *Report to the Stockholders at the Triennial Meeting, September*, 1831.—*Extracts.*

"The Bank of the United States was established for the purpose of restoring specie payments, which had for a long time been suspended throughout a great part of the country—of furnishing a *sound circulating medium*, and of giving more *uniformity* to the exchanges between distant sections of the Union. By importing more than seven millions of specie, and by a free issue of notes immediately after its establishment, the bank with *great sacrifices* succeeded for a time in attaining these objects; but it seems to have been afterwards considered that its powers *were exhausted by the effort, and that the continuance of it would be entirely impracticable.* The *essential difficulty* was presumed to lie in the *provision* of the charter, making the notes *universally* receivable for debts due to the Government, which, by *obliging* the bank to *provide payment* for the same note at various places, would require it to retain a greater amount of specie than it could issue of notes; thus diminishing rather than increasing the sound circulation. The consequence was, the bank issued its own notes sparingly, more especially in the Southern and Western States, where it often preferred the reissue of the notes of the State banks, *being unwilling to issue freely its notes which it might be compelled to pay at some one of the many places remote from the point of issuing them.*

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"Having, in compliance with the directions of the stockholders in 1822, applied *without success* to Congress for a modification of this *disabling provision in the charter*, it became *necessary* for the board of directors to *re-examine* the constitution of the bank, in order to *discover* whether there was really *any organic defect* which prevented it from performing the functions to which it was destined, or whether some *different combination* of its powers might not *overcome its difficulties.*

"The *experiment* was interesting and *hazardous.* It was to try how far the institution could succeed in doing that which had *never* yet succeeded *elsewhere*, in diffusing over so wide a surface of country a currency of large amount and of *uniform* value, at all places and under all circumstances; and also whether it could bring down to its extreme limit the necessary expense of commercial intercourse between distant sections of country, whose exchangeable productions were of such various and unequal values.

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"This system has now been in operation for several years. It was at *first experimental*, and of *doubtful issue;* and as the consequences were equally important to the bank and the community, its progress has been watched with *deep solicitude* Its *success*, therefore, has been seen with proportionate satisfaction."

Mr. President, it is not my fashion to put a strained construction upon any gentleman's words—upon the words of one present, much less one who has no place, no voice here. I will, therefore, put no construction at all upon

the language which I have read. I will let every word stand for itself; will let every phrase be taken in its literal, natural, obvious, inevitable meaning. And what do they tell you? Why, that payment of the same note at various places was impossible; that compulsory payments were fatal to the bank; and, to get rid of them, she has done for herself what Congress refused to do for her, and what her directory, in the time of Mr. Cheves, solemnly declared that Congress alone could do! This is what the president of the bank tells you. Look at the words:

"Bank established to keep up a sound uniform currency; exhausted by the effort to do so; entirely impracticable; essential difficulty in the provision of the charter (the 14th section) which made the notes universally receivable by Government; compellable to pay at places remote from the point of issuing; applied without success to Congress for a modification of this disabling provision; re-examination of the constitution of the bank; discovery of new powers; the difficulties overcome; experiment hazardous; never succeeded elsewhere; the issue doubtful; progress watched with deep solicitude; great satisfaction at the success."

And now, Mr. President, what was this experiment, of hazard so great, of issue so doubtful, which never succeeded elsewhere, the progress of which was watched with so much fear and trembling, and the fancied success of which is announced with so much satisfaction? Sir, it is the invention of this branch bank currency! It is the substitution of branch bank *orders* for the promissory *notes* of the Bank of the United States! And surely, from the first establishment of banks to the present day, a more potent medicine was never invented for the cure of the diseases to which banks are most subject. It has completely overcome all the difficulties which the bank lay under at the time of Mr. Cheves's memorial, and which were then admitted to be fatal to it. What were those difficulties? They were a twofold impediment; *first*, a total inability to sign notes fast enough; *secondly*, a total inability to pay them, according to the charter, after they were signed. The remedy wanted was, increased facilities for signing; diminished liabilities for paying! And the orders have completely answered this double object. Signers enough now, and compulsory payment nowhere! This is the glorious relief which the experiment has brought. This is the cataplasm which has healed the wounds of the bank. This is the medicinal drug—the balsamic drink—the restorative infusion—which has poured a new portion of strength into the exhausted machine, and enabled it to bear its infirmities a little longer. Fifty signers at work, and one hundred and fifty endorsing clerks, pouring out from five and twenty places their perennial streams of paper. When out, it is not payable by law anywhere. Not at the branch which issues it; for there is neither promise, nor law, to exact the payment there. Not at any other branch, for the 14th section of the charter does not apply to orders, and we have just seen that they were invented to evade that section. Not in Philadelphia; for, notwithstanding that may be the purport of the order, yet it is an absolute impossibility; for the people of this wide confederacy, the laboring people especially, who handle these small orders, can never go up to Philadelphia to demand the hard money for them. Yes, sir, these orders are the thing. It is the currency of which they are composed which has enabled the machinery of the bank to go to work after the inaction from 1819 to 1827. It is this currency which has enabled it to flood the South and West (as I will show presently) with paper for which it has not the means of redemption. It is this which has enabled its votaries to raise the cry, brief and delusive, of sound and uniform currency. It is this which enables the retainers of the bank to contradict *President Jackson* for repeating its own words; yes! repeating their own words: for the Message of 1829, declaring the failure of the bank to furnish a sound and uniform currency, is nothing but the repetition of what the bank directory itself had declared, and what all intelligent men know to be true. It is this illegal, irresponsible currency which has enabled the bank to fill the Union with debtors in chains, who scream incessantly for the life and glory of their *Juggernaut*, and attack with the fury of wild beasts every public man who will not square his public conduct by the devouring miseries of their own private condition, and the remorseless cravings of their insatiate idol.

I have now established, Mr. President, as I trust and believe, the truth of the first branch of my proposition, namely, that this currency of branch bank orders is unauthorized by the charter, and illegal. I will now say a few words in support of the second branch of the proposition, namely, that this currency ought to be suppressed.

The mere fact of the illegality, sir, I should hold to be sufficient to justify this suppression. In a country of laws, the laws should be obeyed. No private individual should be allowed to trample them under foot; much less a public man, or public body; least of all, a great moneyed corporation wielding about one hundred millions of dollars per annum, and boldly contending with the Federal Government for the sceptre of political power—*money is power!* The Bank of the United States possesses more money than the Federal Government; and the question of power is now to be decided between them. That question is wrapped up in the case before you. It is a case of clear conviction of a violation of the laws by this great moneyed corporation; and that not of a single statute, and by inadvertence, and in a small matter, which concerns but few, but in one general, sweeping, studied, and systematic infraction of a whole code of laws—of an entire constitution, made for its sole government and restraint—and the pernicious effects of which en-

ter into the revenues of the Union, and extend themselves to every moneyed transaction between man and man. This is the case of violated law which stands before you; and if it goes unpunished, then do I say, the question of political power is decided between the bank and the Government. The question of supremacy is at an end. Let there be no more talk of restrictions or limitation in the charter. Grant a new one. Grant it upon the spot. Grant it without words! Grant it in blank! to save the directors from the labor of re-examination! the court from the labor of constructions! and yourselves from the degradation of being publicly trampled under foot!

I do insist, Mr. President, that this currency ought to be suppressed for illegality alone, even if no pernicious consequences could result from its circulation. But pernicious consequences do result. The substituted currency is not the equivalent of the branch bank notes, whose place it has usurped; it is inferior to those notes in vital particulars, and to the manifest danger and loss of the people.

In the first place, these branch bank orders are *not payable in the States in which they are issued.* Look at them! they are nominally payable in Philadelphia! Look at the law! It gives the holder no right to demand their contents at the branch bank, until the order has been to Philadelphia, and returned. I lay no stress upon the insidious circumstance that these orders are now paid at the branch where issued, and at other branches. That voluntary, delusive payment may satisfy those who are willing to swallow a gilded hook; it may satisfy those who are willing to hold their property at the will of the bank. For my part, I want law for my rights. I look at the law, to the legal rights of the holder, and say that he has no right to demand payment at the branch which issued the order. The present custom of paying is voluntary, not compulsory; it depends upon the will of the bank, not upon law; and none but tyrants can require, or slaves submit to, a tenure at will. These orders, even admitting them to be legal, are only payable in Philadelphia; and to demand payment there, is a delusive and *impracticable right.* For the body of the citizens cannot go to Philadelphia to get the change for the small orders; merchants will not remit them; they would as soon carry up the fire of hell to Philadelphia; for the bank would consign them to ruin if they did. These orders are for the frontiers; and it is made the interest and the policy of merchants to leave them at home, and take a bill of exchange at a nominal premium. Brokers alone will ever carry them, and that as their own, after buying them out of the hands of the people at a discount fixed by themselves.

This contrivance, Mr. President, of issuing bank paper at one place, payable at another and a distant place, is not a new thing under the sun; but its success, if it succeeds here, will be a new thing in the history of banking. This contrivance, sir, is of European origin. It began in Scotland some years ago, with a banker in *Aberdeen*, who issued promissory notes payable in *London*. Then the Bank of Ireland set her branches in *Sligo*, *Cork*, and *Belfast*, at the same work, and they made their branch notes payable in *Dublin*. The English country bankers took the hint, and put out their notes payable in *London*. The mass of these notes were of the smaller denominations, one and two pounds sterling, corresponding with our five and ten dollar orders; such as were handled by the laboring classes, and who could never carry them to *London* and *Dublin* to demand the contents. At this point the British Imperial Parliament took cognizance of the matter; treated the issue of such notes as a vicious practice, violative of the very first idea of a sound currency, and particularly dangerous to the laboring classes. The parliament suppressed the practice. This all happened in the year 1826; and now this practice, thus suppressed in *England*, *Scotland*, and *Ireland*, is in full operation in our *America!* and the directors of the Bank of the United States are celebrated, as the greatest of financiers, for picking up an illegal practice of Scottish origin, and putting it into operation in the United States, and that, too, in the very year in which it was suppressed in Great Britain!

In the next place, these orders are impoverishing and destructive to the States in which they are issued, because they lead to the *abduction of its gold and silver.* If notes are issued, they are payable at the branch bank, and an adequate supply of gold and silver must be kept on hand to redeem them; but these orders being drawn on Philadelphia, the gold and silver of the State must be sent there to meet them. This is the clear undoubted theory of this new-fangled currency; it is also the proved established practice and effects of it. Everybody in the South and West knows that the hard money of the country is constantly disappearing; but those only who have observed the working of the machinery of the Bank of the United States, can tell where all this hard money is gone. The monthly statements of the bank will tell this secret. They will show that the gold and silver of the South and West go to the Northeast; and that the branches are the channels of collection and remittance. Here are some items from the returns of the year 1830, the last which have been yet printed, and which will throw a little light upon this subject:

[The statements.]

Here is a picture for you, Mr. President, and a contrast with it. On one side, a most beggarly exhibition of empty boxes; on the other, fulness and distension to bursting. West of the Alleghanies, and south of the Potomac, no hard money; in the Northeast, millions at every point. But, as a compensation for this deficiency of metal, we have a most bountiful

supply of paper. Ten, twenty, thirty, forty, fifty to one is our proportion of paper to silver. And for all this paper the country is in debt, and pays interest (bank interest) to non-residents and foreigners! Gentlemen of the South complain of the tariff, and doubtless with much reason; but the day is at hand when every eye shall see, and every tongue shall confess, that the tariff is not the only, nor the largest, nor the most voracious vampire which sucks at their veins! The Bank of the United States divides that business with the tariff, and, like the stronger brother, takes the largest share to herself. She furnishes her brood of these insatiable suckers. She hangs them on every vein of gold and silver which the South and West exhibit. They gorge to repletion, then vomit their load into the vast receptacles of the Northeast, and gorge again. The hard money of the country, that money which pays no interest, is sucked up and sent away; the paper money of a company, for which bank interest is exacted, takes its place. The people of the country are in debt for this paper, the greater part of them at second and third hand, borrowers from borrowers, paying rack-interest to the intermediate lenders. The labors of the year barely suffice for the payment of the sixty days' collection of all this interest. The principal is still behind, to come upon these exhausted countries when delayed payment has doubled the difficulty of making payment. When that dread day comes, and come it will, and nothing is gained by putting it off, the towns and cities of the South and West—the fairest farms and goodliest mansions—will be set up at auction, to be knocked down to the bank agent, at the mock prices fixed in the counting room of the bank itself.

In the third place, the emission of these orders has deluged the country with *counterfeits*. The evils of counterfeiting was one of the objections made to the application of the bank for the leave to appoint an agent and register to sign the five and ten dollar notes. The danger was so obvious and imminent, that the memorial of the directors candidly admitted it, and entered into the suggestion of many precautionary measures to prevent it. They admitted that if the signers were *numerous or temporary*, the danger of counterfeiting would be excessive and destructive; but declared that the bank, with a view to its own interest, would not suffer them to be either *numerous or temporary*, although the act might not limit the number. The directors proposed, however, to limit the number to two; to make them permanent officers in the bank; and to publish their appointment in the Washington city gazettes before they should begin to act. A bill with all these provisions was reported; but Congress refused to pass it, and for this reason, among others, that the power of signing the notes involved the power of judging their genuineness; and this power was too high and dangerous—too easily abused—and too hardly remedied, to be trusted to any but the very highest officers of the bank—those whose character and station would afford the strongest guaranties to the public for the fair exercise of a power so delicate and responsible. Congress refused to pass the bill. What next? Why, sir, Mr. Cheves and his directory submitted; but a new directory came in, and what did they do? They re-examined the constitution of the bank, and discovered the means of overcoming the difficulty. They substituted branch bank *orders* for branch bank *notes;* and set, not two, but fifty signers and one hundred and fifty endorsing clerks at work upon these *orders*. What is the consequence? Counterfeiting to an excess, and audacity never paralleled before! I saw in Missouri, before I left home, a descriptive list of ninety-nine varieties of counterfeits on the Bank of the United States and its branches alone; most of them of the class of these five and ten dollar orders. This list was contained in a periodical sheet, called "Counterfeit Detector;" a work wholly given up to describing counterfeits on the United States Bank and its branches; for to such excess has this crime arisen, as to give birth to a new species of literary publication; a periodical newspaper wholly devoted to the description and detection of counterfeit paper currency. The remedy only announces the extent of the evil; it does not cure it. None but business men in cities, and a few official characters, can afford to buy and study these periodicals; the body of the people have no benefit from them. After all, the Detector is no guide; the marks of a counterfeit detected and described in one number of the periodical, are corrected and amended in the next edition of the counterfeits. They instruct the counterfeiters how to amend their work. The fact is, nobody can tell the good from the bad. Brokers and bank officers assume to do it; but they had as well assume to be conjurors and astrologers; they had as well practise incantations, and deliver oracles in convulsions and contortions, as to look at this paper, and pronounce judgments; they had as well gaze at the stars, and judge by the motions of the heavenly bodies, as to look at these orders, and judge from the writing and engraving; they had as well do as the soothsayers of old—go out upon a high hill—watch the flight of birds—and then prognosticate that the *order* is good or bad, as the bird chances to fly, dexter or sinister, as it passes the hill. Far from knowing the handwriting, they hardly know of the existence of the writers! Yet these solemn judges condemn, and condemn irrevocably, the property of the people! They all know how to draw the sign of St. Andrew's cross; and that fatal sign, drawn through the face of an order, is decisive of its fate. True or false, good or bad, from that moment it falls into the receptacle of things; not lost, but damned, on earth.

I do not stand here, Mr. President, to en-

large upon the general evils of a counterfeit currency, such as belong in common to the forging of all bank papers; but there are evils peculiar to the circulation of these counterfeit orders, which give a distinctive character to the mischiefs which they inflict, and demand a particular animadversion. These evils grow, first, out of the wide extent of the circulation of these counterfeits, which carries the forgeries of every State of the Union into every other State, thus affecting each part with the miseries of the whole—swelling the mass of crime and fraud, and augmenting the difficulties of detection in proportion to the distance from which the intrusive counterfeits came. The next peculiar evil is in the multitude of incompetent judges; already about one hundred and fifty in number, and annually increasing. A third peculiar evil is in the one-sided character of these judges—all appointed at the will of the bank—all holding their appointments at her will—and all feeling it to be their interest to commit no mistakes to her prejudice. The last, and greatest, of these peculiar evils, is in the small size of these orders, which throws their counterfeits upon that class of the community who are least capable to detect the imposition, and least able to bear the loss. The laboring classes, the middle-sized farmers, and the country people, are the peculiar victims of this species of counterfeits. They handle small sums, and the small-sized counterfeits fall upon their hands. Every counterfeit must stop somewhere. Sooner or later it must stop in somebody's hands; and the mass of these small ones will certainly stop in the hands of poor people. Thus it was in England. In the space of six years, from 1812 to 1818, no less than 154,454 counterfeit notes were presented and detected at the Bank of England; of which 128,800 were for one pound, corresponding with our five dollar orders; and 18,562 were for two pounds, corresponding with our ten dollar orders; leaving only about 8,000 notes out of upwards of 154,000 for all denominations above two pounds, or ten dollars; thus incontestably proving that the poor were the losers and the victims. This was stated in his place by the honorable Henry Grey Bennet, who stated, at the same time, that out of five hundred and one persons convicted of forging, or passing, or offering counterfeit notes, in the short space of thirteen years, of whom two hundred and seven had been hung, and others deported, the mass of them were poor people; and the notes for which they died, were small ones of one and two pounds, equal to five and ten dollars. And he said, at the same time, that the stockholders of the Bank of England, in this frightful mass of crime, and fraud, and misery, and death, had found their consolation and their profit in dividing among themselves *twenty-five millions of pounds sterling!* equal to about *one hundred and twenty millions of dollars!* This is what the counterfeiting part, or forgery department of the banking system, arrived at in England: this is the point to which the forgery of these branch bank orders is rapidly carrying the American people. And for all the crime and misery which has grown out of the counterfeiting of these orders, and all that shall grow out of them, the directors, who violated their charter to do what Congress forbid, are justly accountable to God and man!

I have carefully abstained, Mr. President, from the use of any topic of a general or exciting nature. I have confined myself to a mere judicial pleading. But there is one argument against the issue of this currency which goes so directly to the honor, the dignity, the independence of the States, that I cannot forbear to hold it up for an instant, and to pass it as a shadow before you. It is this. We all know the high and responsible nature of the coining power. It is an attribute of national sovereignty; in its nature belonging to the highest authority in every form of Government. The States of this confederacy, each for itself, became invested with this high power the moment they burst the chains of British vassalage. Possessed of the right in full, they divided it, in part, with the Congress of the confederation. The convention of 1789 gave it exclusively to the new Federal Government; and since that time no State can coin money, regulate its value, emit bills of credit, or make any thing but gold and silver a tender in discharge of debts. Congress alone has the full power to coin and regulate its value; a disputed power to emit bills of credit, and no power to make any thing but gold and silver a lawful tender. Well, the Bank of the United States refers its origin, in the opinion of many, to the coining and regulating clause in the constitution. What is admitted by all, is, that Congress has granted to the bank a power to issue a paper currency far beyond the amount of the coined currency in the Union; that this paper currency is receivable in payment of all dues to the Federal Government; and, being so receivable, thence enjoys a degree of credit and circulation co-extensive with the limits of the Union. Names, Mr. President, are nothing; substance is every thing. The substantial power of coining, and of regulating the currency, is in the bank; for it issues a currency which exceeds the coin in quantity, and supersedes it in circulation. Congress gave this great power—in effect, one of the highest attributes of national sovereignty—to the company of individuals incorporated under the misnomer of the Bank of the United States; this company has devolved its power, so far as the branch bank orders are concerned, upon their subaltern agencies, called branch banks; and, according to the opinion of the federal court, may devolve it upon whatever agents they please. These subaltern agencies are protruded into the States, and there exercise a power superior to that which the State Governments surrendered to the Federal Government. They issue a paper currency within the

State, which supersedes and expels the hard money. They issue a paper currency *not payable within the State, nor within the next State; nor within five hundred or one thousand miles; nor practicably payable anywhere! and for non-payment of which there is neithe.' prohibition nor penalty in the charter.* This currency necessarily, and practicably, becomes a currency of bills of credit, redeemable at the will of the issuer, and not at the will of the holder; and these bills all people (in the South and West, at least) are under a virtual duresse to receive; because all other currency is chased away. And thus these bills of credit become a forced and irresistible tender in the payment of debts. Can the States stand this? If they can, they are ripe and ready to sink into the condition, not of provinces of the empire, but of farms—the rack-rent farms—of a great moneyed oligarchy.

Sir, I stop; not that I have finished, but that every thing must have an end, even the overflowings of grief and indignation at viewing the frightful progress which a great moneyed oligarchy is making over the sinking liberties of the land. The cause demands a different advocate. It calls for that rare man who rebuked and overthrew the audacious enterprise of Walpole—who overturned the judgments of the King's court—drove back the royal patent across the Irish channel, and saved the people of Ireland from the evils of an illegal currency, and their Government from the degradation of seeing a private individual exercising the high power of issuing a national currency within her limits. The crisis calls for that man. It calls for the dauntless spirit—the mighty genius—the lofty scorn of hopes and fears, which belonged to the illustrious Dean of St. Patrick's! And, if we are now destined to sink in this contest, (which Heaven of its infinite mercy ayert)—but if we are destined to sink, then do I say it is not for want of a cause less just, less righteous, less national, less holy, than that in which Ireland triumphed, but because the combined powers of all America's patriot sons are *unable to write the draper's letters!*

Mr. DALLAS said: The basis upon which the honorable Senator from Missouri had reared the superstructure of his argument was a printed copy of a charge delivered to a jury by one of the judges of the Supreme Court of the United States, sitting as a circuit judge in the eastern district of Pennsylvania. He (Mr. D.) was well acquainted with the circumstances and occasion of that charge, and deemed it right to vindicate the distinguished and learned magistrate by whom it was pronounced from the idea involved in the epithet "extra-judicial." It was any thing but extra-judicial. The trial was of a man indicted for passing a counterfeit order on the cashier of the Bank of the United States. The counsel for the accused, exercising their professional skill, demanded his acquittal upon the ground (among others) that the paper described in the indictment—a forgery of one of the orders against which the gentleman had levelled his battery—was not, if genuine, a legal instrument, and could not be made the subject of a criminal proceeding. He went upon precisely the same course of reasoning as had been heard that morning. It became the duty of the judge carefully to consider, and clearly to expound, the law thus drawn into question. The liberty of a fellow-citizen was dependent upon his opinion. He was about to make it known to the jury: he did so; and this is characterized as "extra-judicial."

But the honorable Senator further complains that the judge attained his conclusions, as to the intent and meaning of the act of Congress incorporating the bank, by "construction." And by what other process could he attain them? It is conceded that no positive and distinct prohibition of these orders or drafts is to be found in the charter: and as if to vindicate by his practice the judge whom he was condemning by his precept, the learned gentleman has ably and indefatigably argued that they are prohibitory by "construction." He takes the very course he disapproves, and denies to others what he cannot himself do without.

It was not his intention to follow the able Senator through the labyrinth of objections he had suggested to these orders or drafts. He had certainly anticipated no such studied and prolonged argument as introductory to the present motion, and was alike unwilling and unequal to the labor of a regular reply, which, however proper it might be before a judicial tribunal, he conceived would be misplaced and ill-timed here. But as so much had been so well said, with the view to discredit the opinion of the learned judge, and tending to produce a destructive alarm as to the validity of the currency in question, he would briefly state the impregnable, though simple, course of reasoning by which its legality, under the charter, was maintained. He did this, not because it was essential to the determination of the matter before the Senate, but, if possible, to turn the edge of a weapon, which, if not aimed, was pointing fatally at the interests of the working and poorer classes of his fellow-citizens.

In the first place, then, not a syllable prohibitory of these orders could be found in the act of incorporation. The sagacity and perseverance of the Senator from Missouri, great and anxious as they were, had failed to discover a single word upon which he could pause, and frankly allege their prohibition. Yet he has told us, and told us truly, that this charter was "*stuffed and crammed with restrictions and conditions*" by those who framed it, with a view to satisfy the republicans of sixteen years ago. It certainly contained many, probably most, if not all, of the securities and guards which wisdom can devise against the mismanagement and misapplication of powers and privileges such as it conferred. No details

seem to be avoided, no specification is deemed too minute, and no phraseology is left restricted or equivocal, in order to bind the bank, and to guaranty the public. It has often and justly elicited praise; but none more flattering to the republican principles and national objects of those who matured it, than the encomium of the learned gentleman who described it as "*stuffed and crammed with restrictions and conditions.*" And yet, though thus "*stuffed and crammed,*" not a sentence is to be detected, which, by any sort of construction, direct or circuitous, natural or strained, can be made to import the prohibition which the Senator would engraft upon it. The wise and upright men of the day on which this instrument bears date, were not apt to overlook plain consequences, or easy means of evasion, nor to make laws so imperfectly as to leave openings into which insects might rush to deface them. They did what they intended to do—and they left undone what they had no intention to do.

The seventh section of this charter bestows upon the corporation, in the usual form, its style and legal capacities, and concludes, generally, that it shall "*do and execute all and singular the acts, matters, and things which to them it shall or may appertain to do, subject, nevertheless, to the rules, regulations, restrictions, limitations, and provisions hereinafter prescribed and declared.*" He (Mr. D.) had already said that the orders or drafts were nowhere excluded in any of the rules prescribed and declared; and it could scarcely be expected that before the Senate of the United States he would make a labored effort to show that the drawing and issuing such paper were "*matters and things*" which it appertained to every trading association, commercial firm, or bank to do. They were embraced in the general grant of powers, and were not excepted from it by any subsequent limitation. All modes of conducting the business and operations of the bank, consistent with its declared purposes and limits, were expressly conferred, and these orders were therefore included.

But this general reasoning became altogether irresistible when it was found sanctioned by the very letter of the charter. In the eighth fundamental rule of the eleventh section, in recapitulating the modes by which the bank might become indebted, these words are used—"*the total amount of debts which the said corporation shall at any time owe, whether by bond, bill, note, or* OTHER CONTRACT." What *other contract?* Every other contract which it may appertain to a bank to make. These orders? why not? If the Senate can persuade itself they are not *contracts*, as the honorable Senator has, by the emergency of his case, been driven to assert, then indeed this single phrase furnishes no protection. But it surely can require, in a commercial country, no recurrence to first principles, or to English common law definitions, much less to the venerable antiquities of Coke and Peere Williams, to prove that the engagements of an authorized agent are the contracts of the principal; or that the bank, openly, notoriously, avowedly assuming upon itself the payment of these orders, does conclusively make them obligatory contracts to the full extent of their terms and amounts.

Again: These very orders or drafts are described, *totidem verbis*, in the eighteenth section of the charter, and are protected, as legal, with the highest sanctions. "If any person shall falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any bill or note, in imitation of, or purporting to be, a bill or note issued by orders of the president, directors, and company of the said bank, or ANY ORDER or check on the said bank or corporation, or ANY CASHIER THEREOF;" or "shall falsely alter, &c., ANY ORDER or check on said bank or corporation, or ANY CASHIER THEREOF;" or "shall pass, utter, or publish, &c., as true, any false, forged, or counterfeited ORDER or check upon the said bank or corporation, or ANY CASHIER THEREOF," &c., or "shall pass, utter, or publish, &c., any falsely altered ORDER or check on the said bank or corporation, or ANY CASHIER THEREOF," &c., every such person shall be deemed guilty of felony, and, on conviction, must be sentenced to hard labor for a term not less than three, nor more than ten years, or be imprisoned, not exceeding ten years, and fined not exceeding five thousand dollars. Now each of these assailed drafts is neither more nor less, in common sense, or in technical law, than *an order on the cashier of the Bank of the United States;* whether drawn by one person or by another, by an agent or by a customer, makes here no difference. Why, then, if it be an instrument not authorized by the charter, spurious, illegal, and void, why is it thus anxiously guarded, and its forgery thus severely punished? Why, if not within the contemplation of the rigorous and pure republicans who "*stuffed and crammed the act with restrictions and conditions,*" is it merely not discountenanced, but specially recognized as a favorite, to be shielded from all impurity, and to be vindicated, by penalties involving the incarceration and infamy of offenders, from all doubt or danger? Differing entirely from the honorable Senator from Missouri, he (Mr. D.) would, upon every such question, look with peculiar solicitude to the penal clause of the act of Congress. Other parts may be loosely constructed, and their meaning be left to be ascertained by the ordinary principles and rules of interpretation; but *this* is uniformly framed with scrupulous exactitude, to be construed strictly, and to be accompanied by such specification as will enable every one to understand what he is to avoid. It is here that we find, more exactly than elsewhere in this charter, the particulars of the currency confided to the control and discretion of the bank—it is here

the protection is provided for each particular—and it is here that these orders on the cashier, denounced by the gentleman, in his meditated resolution, as "*illegal*," are signally and emphatically surrounded by the conservative sanctions of the criminal code.

Mr. WEBSTER said that he had always been of the opinion that resolutions proposing an inquiry which would obviously affect the value of the property of individuals, should be introduced with great caution; nevertheless, he had never voted against a resolution of inquiry concerning a public question; for it lay in the breast of every Senator to decide whether the public interest demanded the inquiry. He did not agree with the gentleman from Georgia, relative to the form of the resolution. If the question had been only for a committee of this body to inquire into a supposed violation of the charter, he should have concurred; but, instead of that, it was proposed to introduce a joint resolution, to be acted upon equally by both Houses of Congress, declaratory that the charter was violated, and that the circulation of the notes be suppressed. Many millions of those bills were now in the pockets of the people of this country; and what effect, after all, would this inquiry have upon the institution? Did it devolve upon the Senate to decide whether the notes were void, or to act at this time upon so important a subject? Should they not, on the contrary, proceed with the utmost deliberation, and make due inquiry, before they resolved upon a measure deciding so great and imminent a question? He would put the inquiry to every Senator present, whether, if there had been an unlawful exercise of power, and, consequently, the paper issue was void—whether they should, before the matter was decided, let a proposition of this nature go abroad to affect the property of the community. Does not the importance of the subject require a deliberate investigation? It was something more than mere form that was objected to; it was the subject-matter of the resolution which was opposed. It proposed to declare that the bills in circulation were illegal, and ought to be suppressed. He could not consent to vote for such a proposition, which, also, called on the Senate to declare that a particular decision of one of the judges in a court of the United States should not have been made. He was not of that opinion, and he would not consent to grant the leave asked for.

Mr. BENTON said there were two ways to bring about the object in view; one was to submit it to the Senate; the other to apply to the President of the United States, who was authorized to cause an investigation into the affair, and, if it was found that the charter was broken and void, to report accordingly. He thought that if the practice was not lawful, now was the time to find it out—the sooner the better. The same directors were now in the bank as when these orders were first issued. If they should go out of office, and new ones take their place, the object might not be so easily accomplished.

Mr. MILLER wished to know further concerning the subject. He had listened to what had been said, and his desire for further information was increased. He thought the Committee on the Judiciary should make the inquiry.

Mr. SMITH objected to this reference, on the ground of the incompetency of the committee to decide upon the legality of the practice.

Mr. MAROY agreed in the opinion that it was contended on one side that the charter of the bank was forfeited, and, on the other side, that it was not forfeited; and as these opinions were entitled to equal respect and consideration, it would be first necessary to decide this point; after which, they might inquire into the legality of the practice of issuing these orders. He hoped the resolution would be received.

Mr. CLAYTON suggested the propriety of modifying the resolution so that it should provide simply for an inquiry into the matter.

Mr. KANE said there was one view of the question which had not been taken, and which had struck his mind forcibly; that was, whether it would not be injurious to the country to proceed to free the stockholders from responsibility. He thought there was no possible form in which this inquiry could be made by the Senate, except in the manner proposed by the joint resolution; not as a legislative body, but as stockholders of the bank. It was the uniform custom to grant leave of introduction, and he should conform to it in the present instance. His mind was not made up as to the merits of the question, and he should express no opinion upon it at present.

Mr. BIBB said that, whatever his opinion might be upon the main question, he should not now speak upon it; but he believed the resolution would be as much opposed in its present shape, as one would be that proposed to liberate all the slaves in the State of Missouri, or that no white man should hold property in Georgia.

Mr. KING was always willing to vote for the introduction of resolutions of inquiry generally; but he hoped the Senate would not consent to admit this resolution in its present form. If it was one of inquiry alone, he would give it his vote, and be in favor of its reference to the Committee on the Judiciary. He did not think it proper to record his vote in favor of a first and second reading of this resolution in its present shape, which would follow if it were introduced, and send that vote abroad to the country. He hoped the resolution would be modified before it was admitted.

Mr. DALLAS suggested whether the Committee on the Judiciary was competent to make the inquiry.

Mr. FORSYTH was of the opinion that the frankness of the gentleman from Missouri, in giving an explanation of the reasons for the resolution, had defeated instead of supported the object in view. If the gentleman, instead

of entering, as he had, into the wide field of argument, in support of the resolution, had been silent, the leave would undoubtedly have been granted. He thought it was hardly fair to take advantage of that gentleman's frankness, by excluding the resolution, because they found the subject-matter improper to be investigated, as the gentleman was under no obligation to have explained the character of the proposed measure, unless it was his pleasure to do so. He hoped the Senate would take this view into consideration, and extend its courtesy to the gentleman notwithstanding the course which had been pursued.

The question was then taken on granting leave to introduce the resolution, and it was decided in the negative, by the following vote:

YEAS.—Messrs. Benton, Dudley, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, Mangum, Marcy, Miller, Moore, Tazewell, Troup, Tyler, White—16.

NAYS.—Messrs. Bell, Bibb, Buckner, Chambers, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, King, Knight, Naudain, Prentiss, Robbins, Robinson, Seymour, Silsbee, Smith, Tipton, Tomlinson, Webster, Wilkins—25.

So the leave was refused, and then the Senate adjourned to Monday.*

MONDAY, January 23.

Bank of the United States.

Mr. BENTON submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to inform the Senate (if any data in his department will enable him to do so, and, if not, that he endeavor to obtain the information from the directors of the Bank of the United States) upon the following points:

1. The amount of paper currency in circulation in the form of *orders* drawn by the presidents of the branch banks on the cashier of the Bank of the United States; distinguishing the amount circulated from each branch, and showing the amounts of the different denominations, or sizes, of the orders respectively.

2. The amount of gold and silver coin and bullion *annually* remitted by each branch bank to the parent bank in Philadelphia, since such branch began to issue a currency of branch bank orders.

3. The names of the branch banks, if any, at which the orders drawn by other branch banks on the cashier of the Bank of the United States, and issued as currency, are not receivable in deposits as cash; and whether any distinction, in receiving or refusing such deposits, is made between the Federal Government and the citizens of the United States.

4. Whether there is any instruction from the directors of the Bank of the United States, commanding the drawers of these orders to cash them at the branch where drawn.

MONDAY, January 30.

The Tariff—Reduction of Duties.

The special order of the day, being the resolution offered by Mr. CLAY for the reduction and repeal of certain duties, was taken up. The question being upon Mr. HAYNE's motion to amend,

Mr. SMITH, of Maryland, rose, and addressed the Senate as follows: I make no apology, Mr. President, said he, for approaching age. It will, however, admonish me to take up as little of the time of the Senate as the important subject under consideration will admit.

We have arrived at a crisis. Yes, Mr. President, at a crisis more appalling than a day of battle. I adjure the Committee on Manufactures to pause—to reflect on the dissatisfaction of all the South. South Carolina has expressed itself strongly against the tariff of 1828—stronger than the other States are willing to speak. But, sir, the whole of the South feel deeply the oppression of that tariff. In this respect, there is no difference of opinion. The South—the whole Southern States—all, consider it as oppressive. They have not yet spoken; but when they do speak, it will be with a voice that will not implore, but will demand redress. How much better, then, to grant redress? How much better that the Committee on Manufactures heal the wound which has been inflicted? I want nothing that shall injure the manufacturer. I only want justice.

I am, Mr. President, one of the few survivors of those who fought in the war of the revolution. We then thought we fought for liberty—for equal rights. We fought against taxation, the proceeds of which were for the benefit of others. Where is the difference, if the people are to be taxed by the manufacturers or by any others? I say manufacturers—and why do I say so? When the Senate met, there was a strong disposition with all parties to ameliorate the tariff of 1828; but I now see a change, which makes me almost despair of any thing effectual being accomplished. Even the small concessions made by the Senator from Kentucky, (Mr. CLAY,) have been reprobated by the lobby members, the agents of the manufacturers. I am told they have put their fiat on any change whatever, and hence, as a consequence, the change in the course and language of gentlemen, which almost precludes all hope. Those interested men hang on the Committee on Manufactures like an incubus. I say to that committee, depend upon your own good judgments—survey the whole subject as politicians—discard sectional interests, and study only the common weal—act with these views, and thus relieve the oppressions of the South.

I have ever, Mr. President, supported the interest of manufactures, as far as it could be

* The question of the illegal and vicious character of this kind of currency, was again brought up on the bill to renew the charter of the bank, and resulted in the adoption of a section in the bill to prevent the issue of such currency in future.

done incidentally. I supported the late Mr. Lowndes's bill of 1816. I was a member of his committee, and that bill protected the manufactures sufficiently, except bar iron. Mr. Lowndes had reported fifteen dollars per ton. The House reduced it to nine dollars per ton. That act enabled the manufacturers to exclude importations of certain articles. The hatters carry on their business by their sons and apprentices, and few, if any, hats are now imported. Large quantities are exported, and preferred. All articles of leather, from tanned side to the finest harness or saddle, have been excluded from importation; and why? Because the business is conducted by their own hard hands, their own labor, and they are now heavily taxed by the tariff of 1828, to enable the rich to enter into the manufactures of the country. Yes, sir, I say the rich, who entered into the business after the act of 1824, which proved to be a mushroom affair, and many of them suffered severely. The act of 1816, I repeat, gave all the protection that was necessary or proper, under which the industrious and frugal completely succeeded: But, sir, the capitalist who had invested his capital in manufactures, was not to be satisfied with ordinary profit, and therefore the act of 1828.

The Senator from Kentucky (Mr. CLAY) says that a progressive decrease of duties is a slow poison, and yet that Senator swallowed the poison in the act of 1816, in the article of cotton, and I have never heard that it has done him much injury. He has also swallowed the poison in the act of 1824, where the duties are progressive, raising them annually. Are they to be understood to be less poisonous by a progressive increase than a progressive decrease? The South considers the progressive increase as the most deleterious. The handicraft-man—the blacksmith—the whitesmith—the workers of the bar iron, are all cruelly oppressed by the heavy duty on that all-important article. Give them the raw material as cheap as it is received by the British workmen, and they will ask for no protection: they will depend on their own hands, and on those of their sons and apprentices. They are not heard. Why? They are not rich—they must be sacrificed to the rich iron master, whose business is more profitable than that of any other in the Union. I forbear going further into this subject at this time. I reserve my further remarks until the subject shall be presented in a tangible shape—in a bill; when I trust I shall be able to show that the act of 1828 is highly injurious to the interest of the manufacturer. If you intend that this country shall be a manufacturing country, you must give the manufacturers the raw material (as England does) free of duty, or with very light duty. While you tax them high, as you do with imposts on hemp, wool, flax, and bar iron, you afford them no efficient protection by your minimum and excessive duties.

TUESDAY, January 31.

Bank of the United States—Inquiries into its Working and Management.

The following resolutions, submitted by Mr. BENTON on the 25th January, were taken up, and agreed to:

Resolved, That the Select Committee to which was referred the memorial of the directors of the Bank of the United States, praying for the renewal of their charter, be directed to inquire as follows:

1. Into the nature and amount of the loans, if any there were, made by the bank or its branches, of local bank paper; and to report all the facts and circumstances which shall be necessary to enable the Senate to judge and determine whether there was usury in the contracts for such loans, or oppression in collecting them.

2. Into the fact of *non-user* of its powers by any of the branch banks, and all the circumstances which may be necessary to enable the Senate to understand the nature, extent, and duration of such *non-user* of powers.

3. Into the amount of the real estate acquired by the bank, and at each branch; and a detailed statement thereof, showing where situate, the price at which acquired, the price for which sold, if sold, and the present value, if not sold.

4. The number of buildings, if any, where situated, and the cost thereof, which may have been erected for the purpose of being rented.

5. Whether the branch bank notes, or the branch bank orders, issued as currency, are received in deposit, as cash, at the parent bank, and at every other branch; and, if not, to report the exceptions.

6. Whether the branch bank notes, or the branch bank orders, issued as currency, are at a discount in any town or city where a branch bank is situated; or in Philadelphia, where the parent bank is; and if so, the rate of said discount.

7. The amount of the gold and silver coin and bullion annually remitted by each branch bank to the parent bank, or to any other place by the order of the parent bank, from 1817 to 1831, inclusive.

8. The annual aggregate amount of the expenses of the bank and her branches, from 1817 to 1831, inclusive.

9. The annual amount of the expenses of the same, for the same time, under the heads: first, of printers and editors; second, attorneys and counsellors at law; third, contingencies.

10. Of what consists the capital of the Bank of the United States, and of such of the branch banks as are reported in the monthly statements to have capital; and the difference between the specie which is reported in one column to be on hand, and the capital which is reported in another.

11. Whether different rates of exchange are taken at any of the branches, or at the parent bank, on bills of exchange, as sold to merchants or persons in official stations, and to the body of the citizens.

12. Whether facilities for obtaining loans are granted to persons in official stations, which are not extended to the citizens generally.

13. That the said Select Committee be empowered to send for persons and papers, and to have oaths administered to witnesses; and that they be allowed a clerk, to be paid out of the contingent

fund of the Senate, to keep the journal of their proceedings, and to take minutes of the evidence, and to do such writing as the committee may direct.

THURSDAY, February 2.

The Tariff—Reduction of Duties.

On motion of Mr. HAYNE, the remaining business of the morning was postponed, and the resolution of Mr. CLAY, on the subject of the tariff, taken up.

Mr. CLAY being entitled to the floor, was about to proceed; when

Mr. HAYNE rose, and said, that before the Senator commenced his remarks, it was due to him that he (Mr. H.) should explain the course he intended to pursue. He proposed, before the question was taken, to call for a division of it, so as to have it first taken on striking out the resolution of the Senator from Kentucky—thus calling upon the Senate to decide on the isolated question, whether any reduction whatever was to be made on the protected articles during the present session, or whether the reduction was to be confined to the unprotected articles, and should extend only to six or seven millions of dollars after the extinction of the public debt. If the resolution of the Senator from Kentucky should prevail, there would of course be an end of the whole question. But if the Senate should agree to strike out, his amendment would then come up for consideration, and would be open to any modification the Senate might think proper to adopt. That amendment had been originally intended to embrace what he understood would be the proposition of the free trade convention. He had understood, however, since, that it varied somewhat from that proposition; and when he should be made acquainted with the precise character of the views presented in the memorial of that convention, he should probably modify his amendment so as to conform to them. It was certainly not his intention to increase the taxes; and he should put his amendment in such a shape as to preclude the inference that duties were to be imposed on articles now admitted duty free, unless, on a full examination by a committee, any of those articles should appear to be fit subjects for taxation. Mr. H. went on to say, that while he was up he would notice an error into which he had fallen in the course of his remarks on this subject on a former occasion, and which the Senator from Kentucky had since brought to his view. He had, on that occasion, quoted from an "Exposition of evidence in support of a memorial to Congress of the Free Trade Convention, prepared by Henry Lee, of Boston," a passage to be found in a note in which certain extracts from Niles's Register were referred to in support of the views of the writer. The Exposition having just been put into his hands, and his attention being called to this note, he had read to the Senate a sentence in which the opinions of Mr. Niles and those of Mr. Lee were so connected together, as to have made on his mind the impression, for the moment, that the whole sentence had proceeded from Mr. Niles. The error, however, was corrected in the printed speech, which assigns to Mr. Niles and Mr. Lee the sentiments entertained by those gentlemen, respectively, with regard to the character of the tariff of 1828.

Mr. CLAY then proceeded to address the Senate in vindication of his resolution, and of the protecting system, as follows:

Eight years ago, it was my painful duty to present to the House of Congress an unexaggerated picture of the general distress pervading the whole land. We must all yet remember some of its frightful features. We all know that the people were then oppressed and borne down by an enormous load of debt; that the value of property was at the lowest point of depression; that ruinous sales and sacrifices were everywhere made of real estate; that stop laws and relief laws and paper money were adopted to save the people from impending destruction; that a deficit in the public revenue existed, which compelled Government to seize upon, and divert from its legitimate object, the appropriation to the sinking fund, to redeem the national debt; and that our commerce and navigation were threatened with a complete paralysis. In short, sir, if I were to select any term of seven years since the adoption of the present constitution, which exhibited a scene of the most wide-spread dismay and desolation, it would be exactly that term of seven years which immediately preceded the establishment of the tariff of 1824.

I have now to perform the more pleasing task of exhibiting an imperfect sketch of the existing state of the unparalleled prosperity of the country. On a general survey, we behold cultivation extended, the arts flourishing, the face of the country improved, our people fully and profitably employed, and the public countenance exhibiting tranquillity, contentment, and happiness. And, if we descend into particulars, we have the agreeable contemplation of a people out of debt; land rising slowly in value, but in a secure and salutary degree; a ready, though not extravagant market for all the surplus productions of our industry; innumerable flocks and herds browsing and gamboling on ten thousand hills and plains, covered with rich and verdant grasses; our cities expanded, and whole villages springing up, as it were, by enchantment; our exports and imports increased and increasing; our tonnage, foreign and coastwise, swelling and fully occupied; the rivers of our interior animated by the perpetual thunder and lightning of countless steamboats; the currency sound and abundant; the public debt of two wars nearly redeemed; and, to crown all, the public Treasury overflowing, embarrassing Congress, not to find subjects of taxation, but to select the objects which shall

be liberated from the impost. If the term of seven years were to be selected of the greatest prosperity which this people have enjoyed since the establishment of their present constitution, it would be exactly that period of seven years which immediately followed the passage of the tariff of 1824.

This transformation of the condition of the country from gloom and distress to brightness and prosperity, has been mainly the work of American legislation, fostering American industry, instead of allowing it to be controlled by foreign legislation, cherishing foreign industry. The foes of the American system, in 1824, with great boldness and confidence, predicted, 1st. The ruin of the public revenue, and the creation of a necessity to resort to direct taxation. The gentleman from South Carolina, (Mr. HAYNE,) I believe, thought that the tariff of 1824 would operate a reduction of revenue to the large amount of eight millions of dollars. 2d. The destruction of our navigation. 3d. The desolation of commercial cities. And 4th. The augmentation of the price of objects of consumption, and further decline in that of the articles of our exports. Every prediction which they made has failed—utterly failed. Instead of the ruin of the public revenue, with which they then sought to deter us from the adoption of the American system, we are now threatened with its subversion, by the vast amount of the public revenue produced by that system. Every branch of our navigation has increased. As to the desolation of our cities, let us take, as an example, the condition of the largest and most commercial of all of them, the great Northern capital. I have in my hands the assessed value of real estate in the city of New York, from 1817 to 1831. This value is canvassed, contested, scrutinized, and adjudged, by the proper sworn authorities. It is, therefore, entitled to full credence. During the first term, commencing with 1817, and ending in the year of the passage of the tariff of 1824, the amount of the value of real estate was, the first year, $57,799,435, and, after various fluctuations in the intermediate period, it settled down at $52,019,730, exhibiting a decrease, in seven years, of $5,779,705. During the first year of 1825, after the passage of the tariff, it rose, and, gradually ascending throughout the whole of the latter period of seven years, it finally, in 1831, reached the astonishing height of $95,716,485! Now, if it be said that this rapid growth of the city of New York was the effect of *foreign commerce*, then it was not correctly predicted, in 1824, that the tariff would destroy foreign commerce, and desolate our commercial cities. If, on the contrary, it be the effect of internal trade, then internal trade cannot be justly chargeable with the evil consequences imputed to it. The truth is, it is the joint effect of both principles, the domestic industry nourishing the foreign trade, and the foreign commerce, in turn, nourishing the domestic industry. Nowhere, more than in New York, is the combination of both principles so completely developed. In the progress of my argument I will consider the effect upon the price of commodities, produced by the American system, and show that the very reverse of the prediction of its foes, in 1824, has actually happened.

Whilst thus we behold the entire failure of all that was foretold against the system, it is a subject of just felicitation to its friends, that all their anticipations of its benefits have been fulfilled, or are in progress of fulfilment. The honorable gentleman from South Carolina has made allusion to a speech made by me, in 1824, in the other House, in support of the tariff, and to which, otherwise, I should not have particularly referred. But I would ask any one, who could now command the courage to peruse that long production, what principle there laid down is not true? what prediction then made has been falsified by practical experience?

It is now proposed to abolish the system to which we owe so much of the public prosperity, and it is urged that the arrival of the period of the redemption of the public debt has been confidently looked to as presenting a suitable occasion to rid the country of the evils with which the system is alleged to be fraught. Not an inattentive observer of passing events, I have been aware that, among those who were most eagerly pressing the payment of the public debt, and, upon that ground, were opposing appropriations to other great interests, there were some who cared less about the debt than the acomplishment of other objects. But the people of the United States have not coupled the payment of *their* public debt with the destruction of the protection of *their* industry, against foreign laws and foreign industry. They have been accustomed to regard the extinction of the public debt as relief from a burden, and not as the infliction of a curse. If it is to be attended or followed by the subversion of the American system, and the exposure of our establishments and our productions to the unguarded consequences of the selfish policy of foreign powers, the payment of the public debt will be the bitterest of curses. Its fruit will be like the fruit

> "Of that forbidden tree, whose mortal taste
> Brought death into the world, and all our wo,
> With loss of Eden."

If the system of protection be founded on principles erroneous in theory, pernicious in practice—above all, if it be unconstitutional, as is alleged, it ought to be forthwith abolished, and not a vestige of it suffered to remain. But, before we sanction this sweeping denunciation, let us look a little at this system, its magnitude, its ramifications, its duration, and the high authorities which have sustained it. We shall see that its foes will have accomplished comparatively nothing, after having achieved their present aim of breaking down our iron founderies, our woollen, cotton, and hemp manufactories, and our sugar plantations. The destruction of

these would undoubtedly lead to the sacrifice of immense capital, the ruin of many thousands of our fellow-citizens, and incalculable loss to the whole community. But their prostration would not disfigure, nor produce greater effect upon the *whole* system of protection, in all its branches, than the destruction of the beautiful domes upon the capitol would occasion to the magnificent edifice which they surmount. Why, sir, there is scarcely an interest, scarcely a vocation in society, which is not embraced by the beneficence of this system.

It comprehends our coasting tonnage and trade, from which all foreign tonnage is absolutely excluded.

It includes all our foreign tonnage, with the inconsiderable exception made by treaties of reciprocity with a few foreign powers.

It embraces our fisheries, and all our hardy and enterprising fishermen.

It extends to all Lower Louisiana, the Delta of which might as well be submerged again in the Gulf of Mexico, from which it has been a gradual conquest, as now to be deprived of the protecting duty upon its great staple.

It affects the cotton planter himself, and the tobacco planter, both of whom enjoy protection.

Such are some of the items of this vast system of protection, which it is now proposed to abandon. We might well pause and contemplate, if human imagination could conceive the extent of mischief and ruin from its total overthrow, before we proceed to the work of destruction. Its duration is worthy, also, of serious consideration. Not to go behind the constitution, its date is coeval with that instrument. It began on the ever memorable 4th day of July—the 4th day of July, 1789. The second act which stands recorded in the statute book, bearing the illustrious signature of George Washington, laid the corner stone of the whole system. That there might be no mistake about the matter, it was then solemnly proclaimed to the American people and to the world, that it was *necessary* for "the encouragement and *protection* of manufactures," that duties should be laid. It is in vain to urge the small amount of the measure of protection then extended. The great principle was then established by the fathers of the constitution, with the father of his country at their head. And it cannot now be questioned, that, if the Government had not then been new and the subject untried, a greater measure of protection would have been applied, if it had been supposed necessary. Shortly after, the master minds of Jefferson and Hamilton were brought to act on this interesting subject. Taking views of it appertaining to the departments of foreign affairs and of the Treasury, which they respectively filled, they presented, severally, reports which yet remain monuments of their profound wisdom, and came to the same conclusion of protection to American industry. Mr. Jefferson argued that foreign restrictions, foreign prohibitions, and foreign high duties, ought to be met, at home, by American restrictions, American prohibitions, and American high duties. Mr. Hamilton, surveying the entire ground, and looking at the inherent nature of the subject, treated it with an ability which, if ever equalled, has not been surpassed, and earnestly recommended protection.

The subject of the American system was again brought up in 1820, by the bill reported by the Chairman of the Committee on Manufactures, now a member of the bench of the Supreme Court of the United States, and the principle was successfully maintained by the representatives of the people; but the bill which they passed was defeated in the Senate. It was received in 1824, the whole ground carefully and deliberately explored, and the bill then introduced, receiving all the sanctions of the constitution, became the law of the land. An amendment of the system was proposed in 1828, to the history of which I refer with no agreeable recollections. The bill of that year, in some of its provisions, was framed on principles directly adverse to the declared wishes of the friends of the policy of protection. I have heard (without vouching for the fact) that it was so framed, upon the advice of a prominent citizen, now abroad, with the view of ultimately defeating the bill, and with assurances that, being altogether unacceptable to the friends of the American system, the bill would be lost. Be that as it may, the most exceptionable features of the bill were stamped upon it, against the earnest remonstrances of the friends of the system, by the votes of Southern members, upon a principle, I think, as unsound in legislation as it is reprehensible in ethics. The bill was passed, notwithstanding, it having been deemed better to take the bad along with the good which it contained, than reject it altogether. Subsequent legislation has corrected very much the error then perpetrated, but still that measure is vehemently denounced by gentlemen who contributed to make it what it was.

Thus, sir, has this great system of protection been gradually built, stone upon stone, and step by step, from the 4th July, 1789, down to the present period. In every stage of its progress it has received the deliberate sanction of Congress. A vast majority of the people of the United States has approved, and continues to approve it. Every Chief Magistrate of the United States, from Washington to the present, in some form or other, has given to it the authority of his name; and, however the opinions of the existing President are interpreted south of Mason and Dixon's line, on the north they are, at least, understood to favor the establishment of a *judicious* tariff.

The question, therefore, which we are now called upon to determine, is not whether we shall establish a new and doubtful system of policy, just proposed, and for the first time presented to our consideration; but whether we shall break down and destroy a long-estab-

lished system, patiently and carefully built up, and sanctioned, during a series of years, again and again, by the nation and its highest and most revered authorities. And are we not bound deliberately to consider whether we can proceed to this work of destruction without a violation of the public faith? The people of the United States have justly supposed that the policy of protecting *their* industry, against *foreign* legislation and *foreign* industry, was fully settled, not by a single act, but by repeated and deliberate acts of Government, performed at distant and frequent intervals. In full confidence that the policy was firmly and unchangeably fixed, thousands upon thousands have invested their capital, purchased a vast amount of real and other estate, made permanent establishments, and accommodated their industry. Can we expose to utter and irretrievable ruin this countless multitude, without justly incurring the reproach of violating the national faith?

I shall not discuss the constitutional question. Without meaning any disrespect to those who raise it, if it be debatable, it has been sufficiently debated. The gentleman from South Carolina suffered it to fall unnoticed from his budget; and it was not until after he had closed his speech and resumed his seat, that it occurred to him that he had forgotten it, when he again addressed the Senate, and, by a sort of protestation against any conclusion from his silence, put forward the objection. The recent Free Trade Convention at Philadelphia, it is well known, were divided on the question; and although the topic is noticed in their address to the public, they do not *avow* their own *belief* that the American system is unconstitutional, but *represent* that *such* is the opinion of respectable portions of the American people. Another address to the people of the United States, from a high source, during the past year, treating this subject, does not *assert* the opinion of the distinguished author, but *states* that of others to be that it is unconstitutional. From which I infer that he did not, himself, believe it unconstitutional.

[Here the VICE PRESIDENT (Mr. CALHOUN) interposed, and remarked that if the Senator from Kentucky alluded to him, he must say that his opinion was, that the measure was unconstitutional.]

When, sir, said Mr. CLAY, I contended with you, side by side, and with perhaps less zeal than you exhibited, in 1816, I did not understand you then to consider the policy forbidden by the constitution.

[The VICE PRESIDENT again interposed, and said that the constitutional question was not debated at that time, and that he had never expressed an opinion contrary to that now intimated.]

I give way with pleasure, said Mr. CLAY, to these explanations, which I hope will always be made when I say any thing bearing on the individual opinions of the Chair. I know the delicacy of the position, and sympathize with the incumbent, whoever he may be. It is true, the question was not debated in 1816; and why not? Because it was not debatable; it was then believed not fairly to arise. It never has been made, as a distinct, substantial, and leading point of objection. It never was made until the discussion of the tariff of 1824, when it was rather hinted at, as against the *spirit* of the constitution, than formally announced, as being contrary to the provisions of that instrument. What was not dreamt of before, or in 1816, and scarcely thought of in 1824, is now made, by excited imaginations, to assume the imposing form of a serious constitutional barrier.

And now, Mr. President, I have to make a few observations on a delicate subject, which I approach with all the respect that is due to its serious and grave nature. They have not, indeed, been rendered necessary by the speech of the gentleman from South Carolina, whose forbearance to notice the topic was commendable, as his argument throughout was characterized by an ability and dignity worthy of him and of the Senate. The gentleman made one declaration, which might possibly be misinterpreted, and I submit to him whether an explanation of it be not proper. The declaration, as reported in his printed speech, is, "the instinct of self-interest might have taught us an easier way of relieving ourselves from this oppression. It wanted but the will to have supplied ourselves with every article embraced in the protective system, free of duty, without any other participation on our part than a simple consent to receive them." [Here Mr. HAYNE rose, and remarked that the passages, which immediately preceded and followed the paragraph cited, he thought, plainly indicated his meaning, which related to evasions of the system, by illicit introduction of goods, which they were not disposed to countenance in South Carolina.] I am happy to hear this explanation. But, sir, it is impossible to conceal from our view the facts that there is great excitement in South Carolina; that the protective system is openly and violently denounced in popular meetings; and that the Legislature itself has declared its purpose of resorting to counteracting measures—a suspension of which has only been submitted to, for the purpose of allowing Congress time to *retrace* its steps. With respect to this Union, Mr. President, the truth cannot be too generally proclaimed nor too strongly inculcated, that it is necessary to the *whole* and to all the *parts*—necessary to those parts, indeed, in different degrees, but vitally necessary to *each;* and that threats to disturb or dissolve it, coming from any of the parts, would be quite as indiscreet and improper, as would be threats from the residue to exclude those parts from the pale of its benefits. The great principle, which lies at the foundation of all free Government, is, that the majority must govern; from which there is or can be no appeal but to the sword. That majority

ought to govern wisely, equitably, moderately, and constitutionally, but govern *it must*, subject only to that terrible appeal. If ever one, or several States, being a minority, can, by menacing a dissolution of the Union, succeed in forming an abandonment of great measures deemed essential to the interests and prosperity of the whole, the Union, from that moment, is practically gone. It may linger on, in form and name, but its vital spirit has fled forever! Entertaining these deliberate opinions, I would entreat the patriotic people of South Carolina —the land of Marion, Sumter, and Pickens—of Rutledge, Laurens, the Pinckneys, and Lowndes —of living and present names, which I would mention if they were not living or present—to pause, solemnly pause! and contemplate the frightful precipice which lies directly before them. To retreat may be painful and mortifying to their gallantry and pride, but it is to retreat to the Union, to safety, and to those brethren, with whom, or with whose ancestors, they, or their ancestors, have won, on fields of glory, imperishable renown. To advance, is to rush on certain and inevitable disgrace and destruction.

We have been told of deserted castles, of uninhabited halls, and of mansions, once the seats of opulence and hospitality, now abandoned, and mouldering in ruins. I never had the honor of being in South Carolina; but I have heard and read of the stories of its chivalry, and of its generous and open-hearted liberality. I have heard, too, of the struggles for power between the lower and upper country. The same causes which existed in Virginia, with which I have been acquainted, I presume, have had their influence in Carolina. In whose hands now are the once proud seats of Westover, Curles, Maycocks, Shirley, and others, on James River, and in Lower Virginia? Under the operation of laws abolishing the principle of primogeniture, and providing the equitable rule of an equal distribution of estates among those in equal degree of consanguinity, they have passed into other and stranger hands. Some of the descendants of illustrious families have gone to the far West, whilst others, lingering behind, have contrasted their present condition with that of their venerated ancestors. They behold themselves excluded from their fathers' houses, now in the hands of those who were once their fathers' overseers, or sinking into decay; their imaginations paint ancient renown, the fading honors of their name, glories gone by; too poor to live, too proud to work, too high-minded and honorable to resort to ignoble means of acquisition, brave, daring, chivalrous, *what* can be the cause of their present unhappy state? The "accursed tariff" presents itself to their excited imaginations, and they blindly rush into the ranks of those who, unfurling the banner of nullification, would place a State upon its sovereignty!

The danger to our Union does not lie on the side of persistence in the American system, but on that of its abandonment. If, as I have supposed and believe, the inhabitants of all north and east of James River, and all west of the mountains, including Louisiana, are deeply interested in the preservation of that system, would they be reconciled to its overthrow? Can it be expected that two-thirds, if not three-fourths, of the people of the United States would consent to the destruction of a policy believed to be indispensably necessary to their prosperity? When, too, this sacrifice is made at the instance of a single interest which they verily believe will not be promoted by it? In estimating the degree of peril which may be incident to two opposite courses of human policy, the statesman would be short-sighted who should content himself with viewing only the evils, real or imaginary, which belong to that course which is in practical operation. He should lift himself up to the contemplation of those greater and more certain dangers which might inevitably attend the adoption of the alternative course. What would be the condition of this Union, if Pennsylvania and New York, those mammoth members of our confederacy, were firmly persuaded that their industry was paralyzed, and their prosperity blighted, by the enforcement of the British colonial system, under the delusive name of free trade? They are now tranquil, and happy, and contented, conscious of their welfare, and feeling a salutary and rapid circulation of the products of home manufactures and home industry throughout all their great arteries. But let that be checked, let them feel that a foreign system is to predominate, and the sources of their subsistence and comfort dried up; let New England and the West, and the Middle States, all feel that they too are the victims of a mistaken policy, and let these vast portions of our country despair of any favorable change, and then, indeed, might we tremble for the continuance and safety of this Union!

FRIDAY, February 3.

Celebration of the Birthday of Washington.

On motion of Mr. CHAMBERS, the joint resolution from the House for the appointment of a committee to make arrangements for the celebration of the centennial birthday of Washington, was taken up, and agreed to.

On motion of Mr. CHAMBERS, the Chair was directed to appoint the committee.

Mr. CHAMBERS moved thirteen as the number of the committee, Mr. RUGGLES twenty-four, and Mr. WEBSTER, five. The last number was adopted.

TUESDAY, February 7.

Celebration of the Birthday of Washington.

The following members were announced as having been appointed by the Chair on the

joint committee for making arrangements for celebrating the centennial birthday of Washington, pursuant to the order of yesterday, viz: Mr. TAZEWELL, Mr. SMITH, Mr. CLAY, Mr. WEBSTER, and Mr. TROUP.

The journal having been read,

Mr. TAZEWELL rose, and said that he perceived in the journal of yesterday's proceedings his name on the committee appointed in conjunction with the committee of the other House, for the purpose of making arrangements for the celebration of the centennial birthday of the first President of the United States. It would be recollected that the condition of the Senate was such, at the time of the passage of the joint resolution, under which the committee was appointed, that it was impossible for its presiding officer to distinguish the dissenting vote given by himself and two other Senators in opposition to the measure. Although opposed to serving on the committee, he would not have troubled the Senate with the application he was about to make, did he not feel it his duty to announce decidedly his sentiments in relation to the purpose for which the committee was instituted. Were it one of the ordinary committees that he was then called upon to serve in, he should not, however irksome the service, have asked to be excused; but when a deputation of that body was appointed to meet a committee of the other House, that deputation should express a unanimous opinion in relation to the business on which they were to act; and he, therefore, entertaining different views from those intended by the resolution, was compelled to ask the Senate to excuse him from serving. Though, on ordinary occasions, he was disposed to make a sacrifice of his own feelings, his own wishes, and his own convenience, yet, on this, he felt it his duty to oppose, in the most decisive manner, the consummation of a purpose, to the inception and concoction of which he had been equally opposed. Man-worship, how great soever the man, Mr. T. said he would ever oppose. For these reasons, he hoped the Senate would appoint, in his place, some other gentleman, whose sentiments and feelings better qualified him to serve on the committee.

Mr. T. was then excused.

Mr. TROUP also asked to be excused from serving on the committee. Mr. T. spoke in so low a tone of voice, as to be scarcely audible in the reporter's seat; but he was understood to give the same reasons for wishing to be excused as were given by Mr. TAZEWELL.

Mr. WHITE, at a subsequent part of the day, also asked to be excused. He said that precisely the same reasons assigned by the gentleman from Virginia, disqualified him from serving. He, too, was opposed to the resolution, and had voted against it.

Mr. W. was likewise excused.

Mr. SMITH also requested to be excused, in consequence of ill health. He had been indisposed in consequence of joining in celebrating the 8th of January, and was compelled to confine himself within doors when not engaged in duty at the Senate, especially in the evening.

Mr. S. was accordingly excused.

The Tariff—Reduction of Duties.

Mr. MANGUM said: The resolution upon the table contains matter of high and great import. It involves principles mingling in deep and dangerous connection with the interests and passions of great masses of this confederacy. It involves a final decision upon this tariff policy, now presented in a naked, unmitigated—ay, aggravated form. I cannot but regard it as the most momentous question which has ever been submitted to any deliberative assembly in this country, since the adoption of the federal constitution—as, indeed, the most fearfully momentous that has ever occurred in the whole history of the American people, with the single exception of the declaration of American independence.

This policy, in its inception and in its progress, has been marked with struggles, keen, fierce, and resolved. In some portions of the Union, all the elements of discontent are stirring and heaving in frightful agitation. The passions are thronging to the contest. It is no longer discussed as a question of political economy, but as a naked question of liberty. Shall this course of things endure longer? Is there any lover of his country who can contemplate it without deep and painful reflections? Shall this beautiful fabric of our liberties be perilled in a contest of mere selfish interests, uncalled for by the exigencies of the country, and unredeemed by any high, noble, and patriotic considerations?

This question has been argued by the gentleman from Kentucky, (Mr. CLAY,) upon the assumption that a large portion of this country are laboring for an entire demolition of those establishments; and appeals have been made to excite every motive of interest, and arouse every selfish principle, to rally around this tariff system, and protect it from the assaults of its ruthless assailants.

Sir, these appeals have been made with admirable sagacity—with a deep conviction that the system can be maintained only by arousing the passions, and excluding the lights of calm and sober reason. But, sir, has this assumption any foundation in fact? Is there any party in this country that seeks to demolish the manufacturing establishments? Is there any which is not deeply impressed with the difficult and delicate responsibility of re-organizing our system of imposts, and adjusting the duties, with a due regard to all the great interests of the country? If there be any such party, it is unknown to me. Sir, the great object of those whom I represent, and with whom I associate, is to adjust this system so as to approximate, as near as may be, an equal participation in the burdens and benefits of the Government.

What is the effect of the resolution upon the

table? It is to aggravate the evil. It is to tax the necessaries of the poor man, while the rich may revel in luxuries, as free from taxation as the air he breathes. It is to increase the extravagant bounties already enjoyed by the rich capitalist, by diminishing the cost of many of the articles which enter into the consumption of his establishment. The duties in the shape of protection remain the same nominally, while in fact they are enhanced to the whole amount of deduction from the prices of articles consumed by the manufacturer and his laborers.

The only feature of mitigation is to be found in the reduction of the amount of revenue. This, however, is more than counterbalanced by the increased inequality in the action of the system. But if a system of imposts shall be adopted in pursuance of the policy of the resolution, what will be the extent of the reduction of the revenue? The Senator from Kentucky estimates it at seven millions of dollars; others are of opinion that it would be between five and six; suppose it to be seven millions, we should then have an annual revenue varying between eighteen and twenty-three millions of dollars, when the actual necessities of the Government would not, and ought not to require more than ten millions to be raised by revenue. The people are then to be taxed from eight to twelve and even fifteen millions of dollars annually, more than the actual wants of the Government, if the policy indicated by this resolution shall ultimately prevail. Sir, can this policy soothe the discontents of the public mind, and restore harmony to the distracted councils of this country? Can it heal those divisions that have so extensively and fearfully impaired the confidence and sundered the affections of distant and important parts of this confederacy? Sir, it cannot. The whole South will regard it with fixed aversion. They will view it as a proof that our distant brethren have but little respect for our feelings; that they turn a deaf ear to our friendly remonstrances, and heed not the narrative of our violated rights and multiplied wrongs. Sir, it does violence to every conception of a free Government. It is subversive of every maxim of an enlightened political economy, and it is utterly regardless of that confidence and affection cemented by mutual interest, which constitute the broad basis—and the only basis—upon which rests the noble structure of our free institutions. It is the part of wisdom, taking broad and statesman-like views, and looking afar off, to persevere in a policy which, by six or seven contiguous States in the Union, is believed to bring to them nothing but pure, unmixed evil, and which a large majority of the people of that region believe to be in violation of the spirit and principles of the constitution?

WEDNESDAY, February 8.

Celebration of the Birthday of Washington.

Mr. DICKERSON said that, perceiving his name [in the place of Mr. WHITE, excused] on the committee appointed on the part of the Senate to make arrangements for the commemoration of Washington's birthday, he wished to be excused from serving upon it, for the same reasons which were given by the gentlemen who were yesterday excused. He was not in favor of the object for which the committee was appointed, nor did he vote for the resolution. He wished to pay all possible respect to the memory of Washington. He hoped the Senate would adjourn over that day, and unite with other citizens in the usual observances of the day. But he could see no good reason why Congress should depart, on this occasion, from the customary mode of honoring the day. He wished to be excused from serving on the committee.

Mr. HAYNE suggested to the Senator that, as his name was upon the committee, and as several gentlemen had already been excused, he had better remain a member of it; and, if he had any objections to any other observance of the day than an adjournment, he could state them to the joint committee, who would, perhaps, be governed by his suggestions.

Mr. DICKERSON felt no disposition, he said, to go into the committee for the purpose of opposing the views and designs of the majority of that committee. It would be unpleasant to him to be placed in that situation. He would propose to withdraw from it entirely.

Mr. MILLER called for the reading of the resolution; and, after it was read, he remarked that, as the resolution agreed to assume that we shall join the House in celebrating the day, gentlemen could have no objection to serving on the committee. Having adopted the resolution, he thought the Senate was bound to proceed in the accomplishment of the design.

Mr. FORSYTH was not present, he said, when the resolution was passed. He thought it an improper mode of paying respect to the memory of the deceased. He was also uninformed how the expenses of the fête, if there was to be one, were to be defrayed. He was willing to excuse the honorable Senator from New Jersey, if he believes he could not, with propriety, consent to join in the objects of the committee.

The question being put, it was decided in favor of excusing the Senator.

[The committee on the part of the Senate ultimately consisted of Mr. CLAY, Mr. WEBSTER, Mr. POINDEXTER, Mr. CHAMBERS, and Mr. BIBB.]

Imputed Illegal Currency of the Bank of the United States in the Form of Branch Bank Orders or small Drafts on the Mother Bank.

Mr. DALLAS moved that the report received

yesterday from the Secretary of the Treasury, in reply to Mr. BENTON's resolution, making inquiries in relation to the currency of the Bank of the United States, be printed, and referred to the Select Committee on that subject.

Mr. BENTON said his statement of the amount of this species of currency in circulation, was mere matter of opinion when he spoke upon the subject two weeks ago. The bank, in none of its reports or publications, had ever discriminated between the notes and the orders; and, judging from the universality of the orders in the West, he had formed an opinion that they must amount to about ten millions. Senators, who supposed him to say thirty or forty millions, must have taken an expression which related to the whole amount of the bank issues, notes and orders, which are returned at forty millions. To settle the question, however, and to ascertain the quantity of orders out, he had submitted a call upon the Secretary of the Treasury, and, if he had not the information, through him upon the president of the bank, to ascertain the amount. That call had been answered. It was received yesterday, and gives rise to the present motions for references to different committees. From that answer we see that the practice of issuing orders as currency began in July, 1827; and that about seven millions had been issued since that time. Of this seven millions, about five millions are believed to be in actual circulation; which, in fact, was less than he had expected. But the cause of his miscalculation was shown in the President's answer.

He (Mr. B.) had supposed that all the branches issued this description of currency; but, in looking over the statement sent in, he found that the more remote and frontier branches alone were set at this work; while the great branches in the capitals and emporiums of the old States, and in this capital of the Union, did no such thing. The Southern and Western branches made these issues, and a few others of the smaller class; but the branches in Richmond, Baltimore, New York, Boston, and this city, issued none. Why this difference? Is it that the intelligence of the great cities would detect the difference between a note and an order, while the inhabitants of the South and West, and other remote or obscure places, would take the orders without knowing the difference, like unfledged robins swallow the gravel which wanton boys throw them in place of crumbs of bread?

Mr. DALLAS said that he did not precisely understand whether the gentleman from Missouri intended his present resolution as a substitute for the one he had presented, on a former day, in relation to the same object. [Mr. BENTON said yes, with the exception of printing.] Mr. DALLAS said the question was one of great interest, and moved that the report be printed, and referred to the Select Committee on the subject of the bank. He wished to state one important fact, viz., that the whole amount of these orders did not exceed five millions of dollars. He stated this, because it had been asserted by the gentleman, on a former occasion, that the amount was thirty or forty millions. Another allegation was, that the effect of these orders was to drain the specie from the western and southwestern portions of the Union. Mr. D. said, it appeared, from the statements of the bank, that, during the period of five years, the aggregate amount of specie from New Orleans did not exceed five millions, and but eight millions from the whole Western country. He thought it incumbent upon him to communicate these facts to the Senate, to prevent any misconception in consequence of the assertions which had been made. In relation to the question of referring the subject to the Committee on the Judiciary, Mr. D. said that the question as to the legality of the bank drafts had been decided by the judicial tribunals of the country, and the reference to the Committee on the Judiciary seemed to involve a question which had already been decided. It seemed to him that the subject should be referred to the committee that had the question of the rechartering of the bank in their charge, with the design that they might inquire into the subject, and, if they found it improper or injurious, to forbid the practice in the future charter, if the bank should be rechartered. In this light, he though the subject belonged peculiarly to the Select Committee on the Bank of the United States, as the legal question had been already judicially decided, and that, therefore, there was no propriety in the reference to the Judicial Committee.

Mr. SMITH made some remarks, which were indistinctly heard. He was understood to say that, in relation to the bank's drawing specie from the West, that such was not the effect there, more than in other portions of the Union, which effect had been caused by the dreadful pressure of trade over the whole country; and that the specie did not go to the Bank of the United States, but to England. The specie drawn from Baltimore was as great as that which had been drawn from the Western States, or anywhere else. When the bank is called on, said Mr. S., it cannot deny the payment of the specie for these orders. How else can the bank manage them as they now do? Must they go to all the branch banks for aid, on every occasion? Without this currency, they cannot avoid it. It is, therefore, a necessary practice to obviate the difficulties which would otherwise be insurmountable.

Mr. BENTON rose to say a word in answer to the venerable Senator from Maryland, (Mr. SMITH.) That Senator was not present when this discussion began, and had not heard the papers read, upon which it was founded. These papers showed that the branches in question had been sending up hard money to the parent bank, for years before the exportation of specie began. The remittances from the South and West dated from 1827—the ex-

portation had only begun in June last. It was not a call, in distress, which the bank had made, but a systematic abduction, which had been going on for years. Every Southern and Western branch was drained of its specie by this process. The disproportion between the specie on hand, and the paper put out by these branches, was excessive, enormous, and appalling. At Pittsburg, forty to one; at Lexington, twenty to one; at Nashville, twenty to one; at New Orleans, sixteen to one; at Fayetteville, North Carolina, about seventy to one. Such were the returns of last December. It was the abduction of the precious metals which had reduced the Southern and Western branches to this lean and famished condition, of which he complained. It was of the currency, illegal and dangerous, for which there was no adequate means of redemption, that he was now demanding investigations, and beseeching the friends of the Bank of the United States not to fly it.

Mr. DALLAS said that he would call the attention of the Senate to some remarks which had fallen from the gentleman from Missouri. He was desirous to correct certain errors which that gentleman had, no doubt unintentionally, fallen into in relation to the United States Bank, in his remarks of this morning. He has stated that the effect of the paper currency is to distress the Southwestern and Western States, and that they were the sections exclusively where the orders were sent; that it was the borders and unenlightened parts of society that were chosen, &c. I have only to remark, that the towns of Providence, Burlington, Utica, Buffalo, Pittsburg, and others, where an equal or greater amount is sent, are not in the unenlightened condition which the gentleman supposes, nor in the southwestern, or quite in the western extremities of this Union. Mr. D. read a statement of the amount sent to each of the branches in these and other places, showing that, instead of the currency being confined to the West, it was circulating in every portion of the country; and that, by recurring to the statement of the bank, they would find that the Ancient Dominion was not excepted. To Norfolk there were also bank orders sent; that they had, therefore, been diffused throughout the various sections of the Union, and to the various branch banks in the Eastern and Middle and Southern, as well as to the Western States. I will refer, said Mr. D., to another mistake which the gentleman has fallen into. He says that the West is drained of its gold and silver. Now, by the statement of the bank, it seems that, of all the specie that is drawn from the West, there are five millions drawn from New Orleans alone, and all that is drawn from the whole Western country is but eight millions—which leaves only three millions from that entire portion of the Union, exclusive of New Orleans, which city I presume the gentleman would not accuse of being unenlightened, and which is peculiarly well situated to be the channel of specie. There were, then, but three millions drawn from those parts of the West which could be called frontier settlements. They had thus contributed almost nothing—comparatively nothing—when the whole amount paid to the bank by other portions of the country was considered. Mr. D. felt it his duty to express these sentiments to the Senate, that they might know the true state of the case, and the reasons why he had moved to refer the report to the Select Committee on the bank subject.

Mr. JOHNSTON said that he did not suppose that the question should be discussed at this time by the Senate, but that it should be left to the Select Committee; and, if any question for which the present discussion would be proper, it would be on the rechartering of the bank; to which point there would be a more suitable application of the arguments of the gentleman from Missouri. Sir, I listened to the gentleman with astonishment the other day, and was surprised at his excitement upon the subject. I think he must certainly be somewhat prejudiced, or that he does not comprehend the interests of the Western people with regard to this subject. Sir, what great evils have been experienced from the circulation of these orders in the West since they were first issued? They were issued because it was difficult to carry on the concerns of the institution without them. It was said the bank had failed, because the managers had said that it was impossible to pay the bills in every portion of the Union, whenever they might be presented, and specie demanded. But, sir, the Bank of the United States had equally the liberty of exchange with the other banks, and an equal currency, with more gold and silver; yet this could not be expected if the branch banks could not give checks on one another, and on the parent institution. Does not the very idea of a branch bank include this privilege? Would it be violating its charter to exert it? And does not the parent bank now exchange with them these orders as well as smaller sums of money for the benefit and convenience of the public? Sir, the banks not only pay these small bills, but give checks on one another, and in this way the exchange is maintained. And the banks cannot be conducted or the people accommodated in any other way. Mr. J. said he did not wish to engage the attention of the Senate himself, or interrupt the debate on other subjects. But when he saw this question introduced in this peculiar manner, by submitting resolutions calling for information, and then, before it was obtained, to proceed with a premature discussion calculated to mislead the public—inflame their minds—and excite their prejudices against the bank—he felt it his duty to explain the object of these orders, and show that they were not fraught with mischief, and followed by distress and ruin, as the gentleman had attempted to induce us to believe. The gentleman has said that there were to the

amount of forty millions of these orders in circulation; and that the whole West was drained of its gold and silver. Why, sir, I know that this is not the case. I was myself at New Orleans last season, and I know that, for the five millions sent to the parent bank, there were nine millions returned from the markets of our produce to replace it; and, so far from there being a deficiency of gold and silver, the general anxiety was to know what to do with it. Does not the gentleman know that the rich countries of Mexico and the other gold and silver regions are directly open to our trade? That our produce is sent out there, and our ships come home loaded with specie? This is the general course and effect of that trade; and when the specie is brought into New Orleans, the great question is how to dispose of it. This the Bank of the United States performs for us by transporting it at their own expense. Sir, when the question comes up in order before the Senate, I hope to be able to satisfy you that the Western people are benefited, instead of being injured, by this currency; and that the circulation of the specie could not be effected without the aid of this arrangement.

The motion of Mr. BENTON was then laid on the table.

THURSDAY, February 9.

The resolutions submitted yesterday by Mr. BENTON and Mr. SPRAGUE were considered and adopted.

The Tariff—Reduction of Duties.

The Senate resumed the consideration of Mr. CLAY's resolution respecting the tariff.

MR. TYLER, of Virginia, said: The honorable Senator from Kentucky (Mr. CLAY) had drawn a glowing picture of the condition of the country. He had spoken of this as the golden age of these confederated States. By the magic of his eloquence he had transported us to what, with classical taste, he was pleased to call, La Belle Rivière, and, sailing down its stream, he pointed out to us a smiling, animated scene—villages rising up in endless succession on its banks, while the arts were gaily meeting us at every step. From thence he led us into the interior of his own State, and there again all was beautiful and enticing. Widely extended lawns—animated groves—and hills covered with numberless flocks. All was gay—all was beautiful—all enchanting. He then translated us to the North, and again we stood in fairy land. Here flourished the arts, and the buzz of industry arose from numberless villages. And, finally, to touch off with still deeper tint the glowing scene, he pointed to us that great mart of commerce, the city of New York—the modern Tyre. But the honorable Senator here stopped—his pencil fell from his hands, when he turned to the South, and she was not found upon his canvas. Where were her rising towns? Where her lawns, her animated groves, and living hills? I said she was not on his canvas—I mistake—she was there, but she was enveloped in gloom. She had ventured to utter complaints—to put forth her grievances respectfully, but strongly—and she was scowled upon—reprehended as uttering unfounded complaints, entertaining unwise opinions, and as advocating a system which would recolonize America. If the Senate could see nothing in all this to justify complaint, then are we indeed fairly subject to reproach. What, sir! could not that fervid and glowing fancy create one animated spot—find one oasis in the wilderness of gloom, on which to rest? How comes this, Mr. President? Is there any thing in soil, in climate, in position, to explain it? Do we sow and not reap? Has the earth suddenly refused to yield to us her harvests? Comparisons are said to be odious; but I only follow in the footsteps of others, and rely upon citations which have already been made in this debate. Look to Mr. Gee's pamphlet of 1750, upon which the honorable Senator so strongly relied, urging upon the British Government the adoption of a policy which would prohibit the use of machinery in the colonies, and compel them to take the manufactured goods of the mother country. That writer dwells with apparent delight on the profitable exchanges which would be carried on with the South; there would be raised the richest products in the raw state, which would be exchanged for the costly manufactures of England. Of the North, that writer speaks in terms of opprobrium and contumely: "The cast-off rags would do for the North. New England and the Northern colonies have not commodities and products enough to send us in return for their necessary clothing, but are under great difficulties, and, therefore, any ordinary sort will sell with them. And, when they have grown out of fashion with us, they are new-fashioned enough there." Mark you, Mr. President, this is not my language; it is the language of the pamphlet, introduced and read by the honorable Senator from Kentucky. I beg leave to give you an anecdote which is said to have occurred at the table of General Washington, shortly after the adoption of the federal constitution. I do not vouch for it, but have often heard it mentioned by others. The party consisted of several Southern gentlemen, and one gentleman from the North. That great and good man was dwelling on the benefits which would arise from the adoption of the constitution; he portrayed the countless blessings which it would bring to the South—dwelt on its rich productions, and the profitable interchange which it would carry on with all parts of the world. At length, turning to his Northern friend, he inquired, "But what will the North do?" The brief and laconic answer was, "We will live by our wits." And well has this reply been realized. By their wits they have acquired much of the wealth which

properly appertains to a more genial climate and richer soil. Their ingenuity has brought forth useful inventions for the benefit of mankind: hardy, industrious, enterprising, they have, in the pursuit of fortune, roamed over distant lands, and braved the terrors of the mighty deep. The compliment paid them by Edmund Burke, on the floor of the British Parliament, was every way deserved. Every Southern man rejoiced in their prosperity, so long as it was the result of their own indefatigable industry. Even their wooden nutmegs excited but a smile, and nothing more. They may, for me, make trade and profit of all their notions, except their tariff notions. Against that I do protest with all my strength. But let me return to the course of my inquiry. How comes it now about that, while the South is impoverished, the North has suddenly become so rich? Why is it that, while the North is dressed in rich and gay attire, the cast-off rags will now do for the South? This is the great subject of inquiry; and I shall prosecute it with patience, and, I trust, with a becoming temper.

The honorable Senator from Kentucky has told you that Virginia was more benefited by the tariff than any other State in the Union. In one breath, he has dwelt upon the large amount of our exports of breadstuffs, and, in the next, has told us of deserted farms and abandoned houses, of families which have gone into decay, and of younger brothers flying to the West. Why the younger brother should fly to the West, and not the elder, since the descent law operates equally on all, I cannot tell—but let that pass. If our exports are so very large, and so excellent a market is provided in the North, then our farms ought still to be cultivated—prosperity should still be ours, and our families should be preserved from decay.

Nor can these results flow from the abolition of the law of primogeniture. [Mr. CLAY explained. He had said that the ancient seats of the great families of Virginia had gone into decay from the abolition of the law of primogeniture, and he had instanced Shirley, Westover, &c.] Mr. T. had understood the honorable Senator, and the remark was undeniably true, to some extent, although not so in reference to the particular estates alluded to. I speak of the effect of the abolition of the law of primogeniture upon the aggregate mass of production. It has expelled the spirit of aristocracy from among us, and has substituted, in place of it, the spirit of a bold, and fearless, and unbending republicanism. And I can say, with perfect truth, that the wide world does not contain a population more devoted to the great principles of human liberty, or more ready at every hazard to maintain them. Our prosperity ought to be greatly increased, and would be greatly increased, by the operation of our descent law, would Government consent to unshackle commerce. Nothing is better calculated to increase production than the division and subdivision of estates: lands are thereby brought into cultivation, which would otherwise remain unreclaimed, and industry exerts all its sinews in their cultivation and improvement. To none of these causes, then, is our condition ascribable.

The honorable Senator, in his effort to find out other causes of depression, has seen proper to remark that we were "too poor to live—too proud to work—too high-minded and honorable to resort to ignoble means of acquisition—brave, daring, chivalrous." That we are too poor to live, as did those who, but a short time ago, preceded us, is most true—and, sir, it is our misfortune to be growing poorer and poorer: the cause of this I shall attempt presently to explain. But that we are indolent or idle, I utterly deny. There lives not a more industrious population under the sun, taken in the mass. Let the honorable Senator revisit his native State; let him go with me to Shirley and to Westover, the estates which he has represented as dilapidated and in ruins, and he would promptly abandon the error into which he has fallen. The first, the ancient seat of the Carters, he would find in the possession of a descendant of that respectable family, who in his own person would illustrate the correctness of the last touch to the portrait drawn by the honorable Senator—brave, daring, chivalrous—that bravery, that daring, that chivalry, displayed on board the frigate Constitution during the late war, in a bloody engagement on the ocean. Not too proud to work, as the highly improved condition of his estate, the reclamation of an extensive body of swamp land as rich as the delta of the Nile, would bespeak. Westover, it is true, has passed out of the hands of the ancient family of the Birds, for debts contracted before the revolution; but the honorable Senator would find in its present possessor no idle drone. There, too, he would behold the effects of an untiring industry; and let me also tell him that he would be received with the extended hand of hospitality, and welcomed by the inmates of that venerable mansion after the manner of the olden time. These estates are embraced within the limits of my native county, of the citizens of which it gives me both pleasure and pride to speak.

And now, Mr. President, let me express an honest opinion—it may be a mistaken, but it is an honest opinion. Five estates upon the James River, and within that county, which, for the information of the honorable Senator, I will name Shirley, Berkeley, Westover, Weyanoke, and Sandy Point, would supply from their surplus production every manufacturer in Rhode Island with food, and I incline strongly to think that you might throw Connecticut into the scale along with Rhode Island. Let me be understood. I do not mean that they could supply 75,000 barrels of flour for Rhode Island. No, sir; this would be altogether extravagant. And if the honorable Senator's statistics be correct, (they are furnished him by

others,) then do these manufacturers in Rhode Island devour more of the fruits of the earth, than ever did an equal number of men in any portion of the globe. [Here Mr. ROBBINS begged leave to explain. He said that the flour imported into Providence was not destined exclusively for Rhode Island, but found its way into the interior of Connecticut, &c.] I am happy to hear it, said Mr. T., for I began to be seriously alarmed for our good friends in Rhode Island, lest they should fall victims to plethora. No one coming from that State had ever impressed me with the belief that the inhabitants possessed such voracious appetites—and certainly the two honorable Senators had not produced with me such an impression. The whole population of the State is but 96,000 souls, men, women, and children; and 75,000 barrels of flour, over and above their own production, would be a supply altogether too extravagant for the whole population, not to limit it to the manufacturing class exclusively.

That we are proud, Mr. President, I do not mean to deny—proud of our native land—proud of our illustrious ancestors—have we not cause to be proud of their high deeds in arms, and of their wisdom in the cabinet—of their devotion to the rights of man, in the maintenance of which they wasted their once ample estates, and considered them as nothing. And if their descendants are sometimes found in penury, while the mansions of their fathers have passed into stranger hands, who among them would exchange their humble habitations for the splendid abodes of the ungenerous and selfish? Has not Virginia now cause to be proud of her sons? Look there, and there, and there, and there, and there, and there, and there, (pointing to Messrs. GRUNDY, ELLIS, FORSYTH, BIBB, POINDEXTER, BUCKNER, and CLAY;) and although some few of them are found the advocates of a policy which she regards as ruinous and destructive, she nevertheless feels a pride in the intellectual strength which they never fail to display. But if she had no other cause of pride, the State which had given birth to a Washington and a Jefferson, would have sufficient reason to exult and rejoice. The rest of the portrait drawn by the Senator requires no comment—"too high-minded to obtain their objects by ignoble means." Yes, sir, this, I trust, is true; and if the honorable Senator had succeeded in proving (in which, however, he will be found to be mistaken) that this tariff benefited Virginia, if it did so at the expense of some other State, she would, I am sure, be too high-minded to sustain it for an hour.

The honorable Senator, then, is mistaken as to the true cause of our distress and impoverishment. I have looked carefully into the matter; and my inference is, that it results, to a great extent, from the simple fact that we sell cheap, and purchase dear. Other causes may conjoin with this, but this is the great controlling cause, and amply sufficient in itself to account for the condition of the South.

The home market has been represented to us as of vast importance, more especially in reference to breadstuffs. This delusion has now been kept up for fifteen years. An increase of duties has never, at any time, been proposed, but that we have had representations made of the great importance of the home market, produced by the encouragement of domestic manufactures. And yet, sir, no man has ever known produce so low as it has been during the last seven years. Tobacco down to an average price of from three dollars and fifty cents to four dollars; wheat averaging during that period, in the seaport towns, seventy-five or eighty cents; corn from ten and six pence to two dollars per barrel; rice, cotton, in short, every production of the soil, at the lowest minimum price of production. And if it was not for the foreign demand, prices would become entirely nominal—produce would either rot in the granaries of the country, or, what is still more probable, the process of production would cease altogether. Who does not see the wide-spread ruin which would desolate the land? From an extract taken from a merchant's books in Philadelphia, claiming and receiving unqualified confidence, flour and wheat commanded a much higher price in 1771, '2, '3, than now; wheat then sold for one dollar the bushel, and flour for seven dollars the barrel; and yet we are continually told of the great importance of the home market created by the tariff. The corn planter and wheat grower understand their interests in this respect somewhat better than they are supposed to do, and so do the manufacturers of flour. They look abroad for their important markets. The corn trade to South America is carried on to a great extent. The millers in Richmond find, in that country, an extensive, and, I have no doubt, a profitable market for breadstuffs; and shipments are actively carried on in the same direction from all parts of the United States. My honorable friend from Massachusetts, who sits before me, (Mr. SILSBEE,) a few years ago, inquired of me as to the prospect of procuring a cargo of flour at Richmond, which he was desirous of shipping to South America. The trade to England, notwithstanding her corn laws, is extensively carried on. When the ports are occluded, the flour shipped thither is placed in bond, and is sent to the different markets of Europe, as they respectively hold out the prospect of commercial advantage. Exchanges are thus beneficially made for British fabrics. Canada also opens an extensive market for American wheat, with a view to convert it into flour, when it is exported, under all the advantages accruing from important discriminations in favor of the colonies, made by the mother country. Nor is this all; other markets are presented to the corn grower, of considerable value. The foreign price regulates the domestic price; and the fluctuations which take place every fall in the wheat market here, are ascribable to hopes excited by the slightest

circumstance of an increased price abroad. If a cloud is over the face of the sun during the harvest time in England, prices advance; and if accounts are brought of a fall of rain, the spirit of speculation immediately becomes more active, and the farmer pockets the benefit. Under these circumstances, the addition of an important market at home would not fail to bring about an increased demand, and with that a greatly augmented price; but, so far from this being the case, produce, I repeat, was never lower than it has been since this American system has been established. That the price borne by the various articles created by agricultural industry is at the lowest possible grade, no one can reasonably doubt. The first part of the proposition is then made out, and the citizens of the South sell at the cheapest rate.

Simplify this American system, and what is it? Take for illustration four individuals: one shall represent the Southern producer, the second the English manufacturer, and the remaining two, Northern manufacturers. The Southern farmer interchanges the valuable productions of the soil, at their minimum price of production, with the English manufacturer, for articles necessary for his consumption, at their minimum price of fabrication. The exchange thus made is equally beneficial to each, and neither, notwithstanding the great fall in price which has taken place in the fruits of their industry, experiences decline. The first obtains for his flour, his tobacco, his cotton, or rice, as great a quantity of the articles which constitute the mass of his consumption, as he formerly did when he obtained much higher prices; and so does the latter. The means of living as abundantly as ever exist with both, and both are equally prosperous; but the two Northern capitalists suddenly interpose, and forbid this advantageous course of exchange. They shackle it with heavy restraints, imposing upon the farmer the necessity either of purchasing of them at a greatly augmented price, or of encountering still greater exactions in the course of the foreign trade. They are enabled to legalize their purpose, if indeed injustice can ever be legalized, by the majority—power which they wield. I submit it to honorable Senators to say, if I have not drawn, by this example, the epitome of the American system; and I demand of all candid men to say whether the power thus exerted is not selfish, despotic, and unjust. Sir, if this matter was brought to any particular neighborhood, and made there to operate upon individuals, eloquence and ingenuity combined could not gloss it over, or hide its deformity from the public eye. Take three individuals in any neighborhood, and let the article involved be one of acknowledged necessity: one of these supposed persons is a purchaser of corn for his own consumption, and the other two are farmers, one of whom, however, by reason of the superior fertility of his land, is enabled to sell his corn at fifty cents the bushel, whereas the other, cultivating a poorer soil, and laboring under other disadvantages, can only afford to raise it at eighty cents. Now, who would doubt for a single instant that the buyer would be greatly benefited by purchasing his supply of the first at the small price, rather than of the last? But, suppose the Government dared to interfere in the matter, and exacted of the purchaser thirty cents in the bushel on the corn which he might purchase from the abundant producer; and should, moreover, assign as the reason for such interference, no want of revenue on the part of the Government, but a determination so to elevate the price of corn as to enable the second farmer to command eighty cents per bushel for his; who, within the wide-spread limits of this Union—who, having any relish for freedom on the face of the habitable globe—would hesitate to pronounce such conduct arbitrary and despotic? If an imperial monarch, armed with absolute power, levied such an exaction, would he not be justly denounced by mankind as a tyrant? Was the *per capita* tax in the time of Richard II., or of ship money by Charles I., more evasive of right and liberty? And yet the spirit of English freedom was roused to resistance in both these instances, and in both the monarch was made to tremble on his throne.

MONDAY, February 13.

Centennial Commemoration of Washington's Birthday.

Mr. CLAY, from the joint committee appointed on the subject, made the following report:

The joint committee of the Senate and House of Representatives appointed to make arrangements for the purpose of celebrating the centennial birthday of George Washington, have, according to order, had the subject under consideration, and now beg leave to report to the respective Houses:

1. That the committee have directed their chairman to propose, at a proper time, by a joint resolution, an adjournment of the two Houses from the 21st to the 23d of the current month, out of respect to the memory of George Washington, and in commemoration of the one hundredth anniversary of his birthday.

2. The committee were desirous that the day should be celebrated by an oration suitable to the occasion. The distinguished citizen who presides in the Supreme Court of the United States appeared to the committee to be eminently qualified to pronounce such an oration, and to be peculiarly adapted to the service from his known friendship and intimacy with George Washington. Accordingly, a letter was addressed, by the direction of the committee, to the Chief Justice, requesting him to assist in the ceremonies of the day, by delivering an appropriate oration; to that letter he returned an answer. From this correspondence (which accompanies the report) it will be seen that the Chief Justice, for reasons assigned by him, declined the task.

3. The committee directed their chairman to re-

quest the chaplains of the two Houses of Congress to perform divine service in the capitol on the 22d instant; the application has been made; and the chaplains have accordingly engaged to comply with the request.

4, and lastly. The committee resolved to recommend to Congress to adopt the necessary measures to carry into effect the resolution which was passed by Congress on the 24th day of December, 1799, for the removal of the body of George Washington, and its interment in the capitol at the city of Washington; and that the ceremony be performed on the 22d instant. In pursuance of this recommendation of the committee, the chairman will respectively submit to the two Houses of Congress a resolution to carry it into effect.

All which is respectfully reported.

H. CLAY,
Chairman of the committee of the Senate.
PHILEMON THOMAS,
Chairman of the committee of the House of Representatives.

WASHINGTON, *February* 9, 1832.

SIR: The Senate and House of Representatives of the United States having appointed a joint committee, for the purpose of making arrangements for the celebration of the centennial birthday of George Washington, the undersigned, chairmen of the committees of the two Houses, have been directed by the committees to request that you will, on the 22d instant, deliver an oration, in commemoration of the great event.

The considerations which have prompted the committees to direct their attention to you, sir, thus to assist in honoring the memory of the father of his country, are obvious and peculiarly appropriate. And the undersigned unite, to the general wish, an expression of theirs, that it may be agreeable to you to comply with the request which they now have the honor to communicate.

We have the honor to be, with great respect,
Your obedient servants,
H. CLAY,
Chairman of the committee of the Senate.
PHILEMON THOMAS,
Chairman of the committee of the House of Representatives.

The Hon. JOHN MARSHALL,
Chief Justice of the United States.

WASHINGTON, *February* 10, 1832.

GENTLEMEN: I have received your letter expressing your wish, and that of the joint committee of the Senate and House of Representatives, that I would on the 22d instant, the centennial birthday of George Washington, deliver an oration in commemoration of that great event.

I will not attempt to describe the impressions made on me by this flattering request, and the favorable opinion it implies. The addition of my exertions, feeble as they might be, to those of Congress, "in honoring the memory of the father of his country" — of the man whom language cannot exalt, would be an act on which I should long reflect with just pride. Could I undertake to deliver a public address on any subject, all my feelings would impel me to comply with a request which does me so much honor, and is so grateful to my heart. But, in addition to the pressure of official duties, which occupy me entirely, and render it impracticable for me to devote so much time to the subject as its intrinsic importance and great interest in the estimation of all would require, I am physically unable to perform the task I should assume. My voice has become so weak as to be almost inaudible, even in a room not unusually large. In the open air it could not be heard by those nearest me: I must, therefore, decline the honor proposed.

My profound acknowledgments are due to you, gentlemen, and to the joint committee, for the selection you have made of the person to perform this interesting service, and I pray you to receive my warm and sincere thanks for the flattering, may I add, friendly, terms in which that selection is communicated.

With very great respect, I have the honor to be, gentlemen, your obedient servant,

J. MARSHALL.

The Hon. HENRY CLAY, and
The Hon. PHILEMON THOMAS.

The report having been read, Mr. CLAY moved that it be printed for the use of the Senate; which was agreed to.

Mr. CLAY then said that it would be perceived that the committee had directed their chairman to submit a proposition for carrying into effect one object of the report; in pursuance of which, he now submitted a joint resolution for that purpose. He was aware that it could not, by the rules, be acted upon to-day without the unanimous consent of the Senate. But as it was one that it was important to be carried into effect immediately, he hoped there would be no objection on the part of any who might dissent from it to acting upon it at once, as, in case it should pass, there would be no time to be lost in making the requisite preparations for effecting the object; and even if the decision of the Senate should be adverse to it, it would be better for that decision to be made without delay. He then offered the following resolutions:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the Senate and Speaker of the House of Representatives be hereby authorized to make application to John A. Washington, of Mount Vernon, for the body of George Washington, to be removed and deposited in the capitol, at Washington city, in conformity with the resolution of Congress of the 24th December, 1799; and that, if they obtain the requisite consent to the removal thereof, they be further authorized to cause it to be removed and deposited in the capitol on the 22d day of February, 1832.

Resolved, That the President of the Senate and Speaker of the House of Representatives be also authorized to prescribe the order of such ceremonies as they may deem suitable to the occasion of the interment of the body of George Washington, in the capitol, on the day above mentioned, and that the two Houses of Congress will attend and assist in the performance of those ceremonies.

The resolutions were read the first time, and, no objection being made thereto, they were read a second time.

Mr. CLAY then said that it would seem

proper, and the Senate would probably expect, that he should say a few words in relation to this subject. The situation in which he found himself placed in relation to this subject, was not one of his own seeking, and was one which he was not desirous to occupy. Yet he did not feel at liberty, when he found his name placed on the committee, to decline the service assigned to him. The fact would be recollected by the Senate, that there were other Senators who had been placed on the committee and declined serving, amongst them an honorable gentleman from Virginia, who had been placed at the head of the committee. Their resignation had left him (Mr. C.) in his present position. He went on to say, that, as far back as the year 1799, there had been an application from Congress, made in the most deliberate and solemn manner, to the widow of General Washington, requesting permission to dispose of the remains of her revered husband in a public manner. She returned an answer giving consent that they should be disposed of as Congress might think proper. So the subject was left, and has so remained until this day. Unsuccessful efforts, it is true, had since been made, chiefly, if not altogether, in the other House, to carry into effect the resolution of 1799; and it was his opinion that the unredeemed pledge of Congress should be fulfilled; and no time could ever occur, at least during the present generation, more proper than the present to redeem that pledge. The committee, said Mr. C., do not, and cannot doubt that the family of General Washington at Mount Vernon will be willing to yield their consent to the object of the resolution. He would beg leave to state, in addition, that those who were intrusted with the erection of the capitol had already provided a vault, under the centre of the rotundo, for this express purpose; not by authority, he believed, but upon their own suggestion and sense of propriety; and, if there was no objection in this or the other House, the committee would proceed to make, so far as devolved on them, the arrangements for the ceremony. These, Mr. C. said, were all the remarks that the occasion seemed to require from him, and he would conclude with expressing the hope that the Senate would adopt the resolution.

Mr. FORSYTH said he should be compelled, by a sense of duty, and sacred respect for the memory of the illustrious man who was the subject of the resolution, to oppose its adoption. If there was any one subject in the world over which the wishes of the deceased should regulate the actions of the living, it was that which related to the disposition of their own remains. He had before him an expression of the last wishes of General Washington on the subject; and, notwithstanding what had been done by Congress, those wishes were, with him, sacred. [Here Mr. F. read the clause in the will of General Washington, in which he gives directions respecting the place and manner of his interment.] The will directed that, as the old vault was out of repair, a new one should be built, in which his remains, with those of his deceased relatives, then in the old vault, should be deposited; and gave it as his express desire, that his body might be interred without pomp or parade of any kind, and that no funeral oration should be pronounced over it.

Mr. WEBSTER said if he made the same interpretation of the clause of the will of General Washington, just read by the gentleman from Georgia, (Mr. FORSYTH,) as was given to it by that gentleman, he might concur with him in the conclusion that the wishes of the illustrious deceased were adverse to the proceedings contemplated by the resolution; but he did not see that any such inference could be drawn from the clause quoted; it was but a common case to find such directions in the wills of distinguished persons for the dispositions of their remains. If the will contained a provision that the remains should continue in the vault at Mount Vernon, the case would be altered; but, as the clause quoted only expressed the desire that the funeral should be without pomp or parade, he (Mr. W.) did not view the subject in the light presented by the gentleman from Georgia. On the general question, as to the propriety of a removal of the body, every one had some opinion, not likely to be disturbed by that of others. Since, however, said Mr. W., the subject has been brought before us, and we are called upon to decide upon carrying into effect the resolution of 1799, it seemed to him that this was the most proper time to redeem the pledge then given. It is a century since the birth of General Washington, and we shall have no opportunity so appropriate as the present, of giving a degree of imposing solemnity to the proceedings. There was something also appropriate in this case, in executing the designs of the old Congress in the mode proposed, without form or parade, and in accordance with the wishes of the deceased, which met with his hearty concurrence. The religious services also proposed, appeared peculiarly suited to the solemnity of the occasion.

The question being put, the resolution was adopted by the following vote:

YEAS.—Messrs. Bell, Bibb, Clay, Clayton, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Kane, Knight, Moore, Naudain, Poindexter, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—29.

NAYS.—Messrs. Buckner, Dallas, Forsyth, Grundy, Hayne, Hill, King, Mangum, Marcy, Miller, Smith, Tazewell, Troup, Tyler, White—15.

TUESDAY, February 14.

Washington's Remains.

On motion of Mr. CLAY, the Senate proceeded to the consideration of the following joint resolutions from the House:

Resolved by the Senate and House of Representatives, That the President of the Senate and Speaker

of the House of Representatives be hereby authorized to make application to John A. Washington of Mount Vernon, and to George W. P. Custis, grandson of Mrs. Washington, for the remains of Martha Washington to be removed and deposited in the capitol at Washington city, at the same time with those of her late consort, George Washington, and, if leave be obtained, to take measures accordingly.

Resolved by the Senate and House of Representatives, That the President of the United States, the Judges of the Supreme Court, Charles Carroll, of Carrollton, James Madison, the Secretaries of State, of the Treasury, of War, and of the Navy, the Postmaster General, the Attorney General, and the relatives of the family of George Washington, be invited to attend at the ceremonies to be performed on the 22d of February instant, in honor of the memory of George Washington; and that the President be requested to superintend the deposit of the remains of the deceased in the place which has been selected for that purpose.

As to the joint resolution, Mr. CLAY said there could be no objection, unless it was to the second name inserted in it. He did not think the application should be made to any but the resident proprietor of Mount Vernon, who was the representative of the family. Mr. Custis was only connected with the family by marriage; and if the application was made to him, it should, for the same reason, be made to others of the same branch of the family. He moved to strike out the name of George W. P. Custis.

Mr. FORSYTH remarked that the object of the resolution was to obtain the assent of the family to the proposed removal, and that Mr. Custis was the only living male descendant of Mrs. Martha Washington.

Mr. CLAY withdrew his motion; and, after some remarks from Mr. TAZEWELL against, and by Mr. CLAY, in favor of the resolution, it was agreed to.

The second resolution, inviting Mr. Madison and others to be present at the commemoration, was taken up.

Mr. POINDEXTER, intending, he said, to vote against the resolution, called for the yeas and nays on the question of agreeing to the resolution. He would not object to the distribution of invitations by the committee, but it was a novel and extraordinary measure to issue cards of invitation by a joint resolution of Congress.

Mr. CLAY was of the same opinion expressed by the Senator from Mississippi; but, as the resolution was before us, he hoped he would withdraw his objections to it.

Mr. BIBB offered an amendment, which he regretted was not offered by some other person, as it was his intention to vote against the resolution. There was another ex-President besides the one named in the resolution, to whom it was proper that the invitation should be extended; and he moved to insert the name of J. Q. Adams.

Mr. POINDEXTER moved that the resolution be laid on the table—agreed to by a vote of 14 to 13.

WEDNESDAY, February 15.

Washington's Remains.

On motion of Mr. FORSYTH, the joint resolution from the House, yesterday laid on the table, inviting certain distinguished persons to attend the celebration of the 22d of February next, was taken up, and read as follows:

Resolved by the Senate and House of Representatives, That the President of the United States, the Secretaries of State, of the Treasury, of War, and of the Navy, the Postmaster General, and the Attorney General, be invited to attend at the ceremonies to be performed on the 22d of February instant, in honor of the memory of George Washington; and that the President be requested to superintend the deposit of the remains of the deceased in the place which has been selected for that purpose.

Mr. FORSYTH said that the objection to the resolutions made yesterday, was, that it was improper for Congress to give invitations; he thought differently; but as he did not wish to revive the question, he would submit the following substitute:

Resolved, That the President of the United States be requested to superintend the deposit of the remains of George Washington, in the place which has been selected for that purpose, on the 22d February instant.

Mr. JOHNSTON moved to strike out all the names except those of Madison and Carroll. He thought the family of Washington should be invited by the committee. The connection of the names of Madison and Carroll with the history of the country, distinguished them from all others, and he thought they should be specially invited to attend by a resolution of Congress. He understood yesterday that the Senate objected to invitations by resolution; the object of his motion was to ascertain whether the Senate was willing to retain the invitation to Mr. Carroll and Mr. Madison.

Mr. KING had understood that the committee were authorized to invite the attendance of those gentlemen and many others.

Mr. JOHNSTON wished to include in the invitation the name of the ex-President Adams, but he had understood that that gentleman had expressed upon the same proposition, when made in the other House, an unwillingness to accept any mark of distinction from other members of the same body to which he belonged.

Mr. POINDEXTER said, if invitations were to be given at all, he would be perfectly willing to retain the names mentioned, but he objected to the form and principle of the invitation. It should be extended, if given at all, to the venerable Sumter, and to the biographer and friend of Washington, the Chief Justice.

Mr. JOHNSTON having withdrawn his motion,

the question recurred on Mr. FORSYTH's motion.

Mr. CLAY remarked that the presiding officers of the two Houses were invested with the power to make all the arrangements proper for the occasion. The plan originated in Congress. It was the work of Congress from the adoption of the resolution, in 1799, to the resolution now adopted for carrying it into effect. It had been thought proper, therefore, to leave the arrangements with the presiding officers of the two Houses, as the manner most respectful to the family and the memory of the deceased. The joint resolution reported from the joint committee had vested the superintendence of the removal with the presiding officers of Congress.

Mr. FORSYTH thought that the proposed amendment carried out the original intention of Congress, which assigns the duty of the removal to the Chief Magistrate. He did not think that there would be any incongruity between this amendment and the resolution assigning the arrangements to the President of the Senate and the Speaker of the House.

Mr. KING said there was no incompatibility between the proposition of the gentleman from Georgia and the resolution adopted.

The amendment was then adopted, and the resolution, as amended, was agreed to.

The Tariff—Reduction of Duties

The Senate resumed the resolution of Mr. CLAY relative to the tariff.

Mr. GRUNDY said: Mr. President, according to the last annual report from the Treasury Department, the people of the United States now pay in taxes on imported articles twenty-six million five hundred thousand dollars. This is the sum which will be paid into the Treasury for the present year, from that source of revenue. From other sources, that is, the sale of public lands, bank dividends, and incidental receipts, four million one hundred thousand dollars, amounting, in the whole, to thirty million one hundred thousand dollars. I know of no reason, I have heard none assigned, which would authorize an opinion that there will be a diminution of revenue, provided the duties remain at the present rates. I admit that, upon the item of incidental receipts, no great reliance in making an estimate for the future ought to be placed. Therefore, strike off one hundred thousand dollars from this item, and only retain ten thousand dollars, which will, no doubt, be collectable from old debts for many years to come. You will then have a revenue of upwards of thirty millions. The estimated expenditure of the Government (exclusive of the public debt) is thirteen million three hundred and sixty-five thousand two hundred and two dollars. Deduct from this sum three millions of revenue from the public lands, four hundred and ninety-six thousand dollars, the dividends of the bank stock, and the ten thousand dollars for incidental receipts, and you need only the sum of nine million eight hundred and sixty-five thousand two hundred dollars, to meet the exigencies of the Government. This is the sum Government needs; nor is one dollar more necessary for its support. There would, then, remain sixteen million six hundred and thirty-four thousand seven hundred and ninety-eight dollars, over and above all the demands of the Government. Another thing is certain, that, upon a reduction of duties, the imports will be increased; and in this way a larger sum will be produced, than any estimate founded upon the present amount of importations.

Mr. President, let us now present the question fairly. Shall the people of the United States be taxed upwards of sixteen and a half millions of dollars annually upon imported articles, for the purpose of enabling the domestic manufacturers to tax them in the same degree upon all the articles manufactured and sold by them? This is the very object the manufacturers have in view, in pressing this subject on Congress. Their language to us is plainly this: we want to make your constituents, one and all, pay us a higher price for all the articles we manufacture: this we cannot do, so long as they are permitted to buy the same kind of articles made in foreign countries; therefore, we insist that you, by taxation on foreign articles, shall so increase the price, that your constituents will be constrained to buy of us at prices which will enrich us. Disguise this matter as they may, this is the true cause of all that anxiety and solicitude which they have manifested from the commencement of this system. For myself, I am unwilling to indulge them at the expense of those whose interests are in part confided to my care. I will here remark that if the duty on protected imported articles shall amount to twenty millions of dollars, and the imported article shall constitute one-half of the amount consumed in the United States, and the other half shall be supplied from the domestic manufactories, the people of the United States will be taxed to the amount of forty millions: of which, the one-half arising from the duty on foreign imported articles goes into the Treasury, and is of some public benefit; the other half goes into the hands of the domestic manufacturers, and is of no further advantage, than as it increases the wealth of a few of the capitalists of the country.

The resolution of the Senator from Kentucky proposes to abolish the duties entirely on all articles of a kind not manufactured in the United States, except silks and wines; and to reduce them on these articles. So long as duties are paid on imported articles, for the purpose of raising revenue, I cannot consent to this proposition. The true principle of taxation is to impose it on those who are best able to bear it. The resolution on your table proposes a total abandonment of this principle. The articles to be released from taxation are luxuries used almost exclusively by the rich, while the burdens are left with all their weight

upon the poorer portion of the community. This would be no alleviation of the evils complained of; and I will not unite in holding out to the poor man the delusive hope that he is to be able to clothe his family in silks, and regale himself on wine every day; while all the articles of dress he purchases, his salt, his sugar, his plough, his axe, and his hoe, and all other utensils with which he earns his daily bread, are so taxed as to render him unable to raise his family. No, sir, give him his necessaries of life untaxed, or taxed lightly; let his labor have its full reward, and he will then increase in his means, and in time be able to indulge in luxuries if he shall please to do so.

The object of the capitalists, engaged in manufactures, in consenting to take off the duties on articles they do not make in their establishments, cannot be mistaken. It is to concentrate the whole taxation of the country upon those foreign articles which come in competition with theirs. The operation of such a system will be doubly in favor of the rich capitalists. It will enable them to obtain all foreign luxuries free of taxation, and at the same time to tax the poor as well as every other class of citizens, through the necessaries of life consumed by them, for the augmentation of their profits. These men are a privileged order in our country. They have formed, and seek to perpetuate, a kind of partnership with the Government in taxing the people; and the present struggle is to abolish, or much reduce, every tax in which they have not some share of the proceeds. They conspire to raise the price of all necessaries of life, giving part of the increase to the Government, and taking part to themselves.

Let us now see, Mr. President, what effects have been produced by this system of taxation upon the other great interests of the country. In 1817, when it commenced, the tonnage of the United States engaged in foreign commerce was 809,724 tons. In 1829, it was 650,142 tons, a decrease of 159,582 tons. In 1817, there were 519,186 tons engaged in the coasting trade. In 1829, there were 610,654 tons, to which should be added something for the improved manner of constructing vessels. From this, it appears, that, taking the whole tonnage of the United States that is engaged in foreign commerce, and also that engaged in the coasting trade, the navigation of the country has decreased under the influence of this system, which gentlemen say has imparted its benefits to every other interest of the country. What influence has it produced upon commerce? Prior to the embargo of 1807, with a population of only six millions of inhabitants, our exports amounted to about eighty-four million five hundred and sixty-four thousand five hundred and thirteen dollars. In 1817, it amounted to eighty-seven million six hundred and fifty-one thousand five hundred and sixty-nine dollars. In 1830, it amounted only to the sum of seventy-three million eight hundred and forty thousand five hundred and eight dollars. In the intermediate years, it will be seen by the annual reports from the Treasury, there has been an almost regular diminution of the exports and imports of the country. In answer to the argument that the demand for our products cannot be enlarged, I answer, that if we use more of their articles, other nations can and will consume more of ours, and this will be beneficial to both parties, because each will receive in exchange a greater value than at present. They will receive our agricultural products at a cheaper rate than they can now purchase or can produce the same articles, and we shall receive their manufactures at a lower price than we now pay for them. From the foregoing statement of our navigation and commerce, it appears these great pillars of our prosperity have not been strengthened, but weakened, by this system of restrictions; and when it is remembered that our naval power and glory, and our ability to defend our shores against invasion, are intimately connected with the navigation of the country, we ought not rashly to promote measures calculated to destroy it. The agriculture of the country is closely connected with its commerce; and that which is calculated to depress the one, has an injurious influence upon the other.

Are the existing tariff laws constitutional? It is my opinion that they are. I advance it with some diffidence, because I know there are many learned men, both in and out of this Senate, whose views upon this subject are in direct opposition to mine. I can discover but little practical good that can arise from a discussion of this subject; but as it has been introduced, and my mind is satisfied upon it, I can have no objection to declaring the opinions I entertain. I shall deliver no philological dissertations upon the subject, as the Senator from Maine has done; but attempt to show to the Senate that this power exists, not only by virtue of the constitution, but from necessity. The power to regulate commerce and impose duties on imported foreign articles, is given to the Federal Government expressly by the constitution; and it has at all times been considered as an attribute of sovereignty possessed by every State or nation. All nations have exercised it; and had this confederacy never been formed, each State, as a sovereign, independent Government, would have been at liberty to exercise it without any restraint, and for any purpose it might judge proper. The States discovered that this was one of the powers which they could not exercise separately to advantage; and this was one of the strongest reasons which operated to produce the Federal Government. It was foreseen that, if each State retained this power, it would be exercised variously, and constant jealousies and collisions would arise among them; and foreign nations, availing themselves of this state of things, would succeed in destroying their independence. It was then agreed in convention that this power of regulating commerce and imposing duties,

whatever it might be, should be surrendered by the States to the General Government. This surrender or transfer was made without restriction or limitation. It certainly was not designed by the framers of the constitution that the State Governments and the Federal Government together should possess less power upon this subject than the States then possessed, and would have continued to possess, had each State remained separate and distinct. Unless, then, it can be shown that, in the transfer of this power, (which at one period unquestionably belonged to the States,) some diminution was produced, it is a fair conclusion to say that it properly belongs to this Government, for all the purposes and objects for which nations have been in the habit of using it. It must be admitted that no portion of this power remains with the several States, because they are expressly prohibited from imposing duties. What, then, has become of it, if it does not appertain to the General Government?

THURSDAY, February 16.

Washington's Remains.

The VICE PRESIDENT laid before the Senate the following correspondence:

WASHINGTON, *February* 14, 1832.

SIR: The Senate and House of Representatives have passed a joint resolution to celebrate the centennial birthday of George Washington, authorizing the President of the Senate and the Speaker of the House of Representatives to make application to you for his remains, to be removed and deposited in the capitol, at Washington, in conformity with the resolution of Congress, of the 24th of December, 1799.

They have passed another joint resolution, authorizing us to make application to you, and to Mr. George Washington Park Custis, for the remains of Martha Washington to be removed and deposited at the same time with those of her late consort, George Washington.

We herewith enclose copies of these resolutions; and, in the discharge of the duty imposed on us, have to request that you would give as early an answer to this application, as may be practicable.

We have the honor to be, with great respect, your obedient servants,

JOHN C. CALHOUN,
President of the Senate and Vice President of the United States.
ANDREW STEVENSON,
Speaker of the House of Representatives.

Mr. J. A. WASHINGTON,
Mount Vernon.

MOUNT VERNON, *February* 15, 1832.

To the Honorable the President of the Senate and Speaker of the House of Representatives:

GENTLEMEN: I have to acknowledge the receipt of your letter, and the resolutions of Congress to carry into complete effect that which was adopted in December, 1799, for the removal of the remains of General Washington to the seat of Government.

I have received, with profound sensibility, the expression of the desire of Congress, representing the whole nation, to have the custody and care of the remains of my revered relatives; and the struggle which it has produced in my mind between a sense of duty to the highest authorities of my country, and private feelings, has been greatly embarrassing. But when I recollect that his will, in respect to the disposition of his remains, has been recently carried into full effect, and that they now repose in perfect tranquillity, surrounded by those of other endeared members of the family, I hope Congress will do justice to the motives which seem to me require that I should not consent to their separation.

I pray you, gentlemen, to communicate these sentiments and feelings to Congress, with the grateful acknowledgments of the whole of the relatives of my grand uncle for the distinguished honor which was intended to his memory, and to accept for yourselves assurances of my gratitude and esteem.

JOHN A. WASHINGTON.

ARLINGTON HOUSE, Tuesday Night,
February 14, 1832.

GENTLEMEN: The letter you have done me the honor to write me, requesting my consent to the removal of the remains of my venerable grand parents from their present resting place to the capitol, I have this moment received.

I give my most hearty consent to the removal of the remains, after the manner requested, and congratulate the Government upon the approaching consummation of a great act of national gratitude.

I have the honor to be, with perfect respect, gentlemen, your most obedient servant,

GEORGE WASHINGTON P. CUSTIS.

To the honorable J. C. CALHOUN, *Vice President*, &c., and ANDREW STEVENSON, *Speaker of the House of Representatives.*

FRIDAY, February 17.

The Tariff—Reduction of Duties.

The Senate then resumed the consideration of Mr. CLAY's resolution on the tariff.

Mr. EWING, of Ohio, said: The Senator from South Carolina (Mr. HAYNE) tells us, and the same idea has been again and again reiterated by gentlemen, that, whatever may be the effect of this system upon other portions of the Union, to the South—especially the elder portions of the Southern States—it is every thing that is abhorred and pernicious—a blight, a mildew, a withering curse. Sir, epithet and denunciation prove nothing, except the warmth of those who utter them. If injury has been inflicted upon that section of the Union by the tariff, the mode of operating that injury can surely be pointed out. It can effect it by none but visible and sensible means, and must, as I conceive, be confined to a reduction in the price of the staple of the country, limiting the extent of the demand at home or abroad, or enhancing the price of the commodities purchased by the people.

I have already shown that the price of the

staple (raw cotton) is, in some measure, sustained by the tariff—so far, at least, as it has converted cotton lands to the culture of sugar, and thereby limited the excess of production which would otherwise necessarily have sunk the article even below its present price. I have, also, heretofore shown that the British manufacturer is able to purchase of us all that he wishes to purchase, without looking to us for the means of payment. That it is for his interest to purchase to the full extent of his market for the manufactured article; that, therefore, the extent of the market for the raw material, at home and abroad, is equal to what it would have been without the tariff. This view of the case is strengthened by the fact that, since 1824, the quantity of cotton sold has increased in a ratio equal to that of former years, and the price has not sunk in as great a ratio. I have shown, too, so far as negative can be shown, that the price of protected articles has not enhanced in consequence of the protection. And no counter evidence whatever has been brought forward to prove that a single article has risen higher, or fallen less, in consequence of protection, except, indeed, the finest woollen fabrics, articles of luxury, in which we have not yet been able to compete with the British manufacturers.

The Senator from South Carolina has said that the tariff, by enhancing the price of the manufactured article, tends to diminish its consumption among the poorer classes; thus limiting the extent of the demand, and compelling first the merchant, then the manufacturer, then the producer, to come down to the lowest price at which each can carry on his operations, and thus casting a part of the burdens of protection upon the producer, as such, over and above his share of the burden as consumer. However true this might be, in a possible state of things, the very reverse of it is known to be the fact with respect to the cotton fabric. If the tariff has, in fact, compelled the British manufacturer to work cheaper and the merchant to receive less profits, effects which, by the gentleman's own hypothesis, must be produced before any of the burden can fall on the producer of the raw material, as they both stand between him and the consumer—if the merchant and manufacturer are compelled to take less profit, the price of the article is, at once, reduced to consumers in all parts of the world, except the United States; and the price being reduced, it is brought into more general use among the poorer classes, and its sale becomes more extensive in nineteen-twentieths of the markets of the world. I do not say that the gentleman's position is sound; but, if it be so, this is the first consequence that flows from it. And, sir, with regard to the consumption of cotton fabrics in the United States, which the gentleman seems to suppose is, or may be, diminished by the protecting system, his whole theory is built upon a supposed augmentation in price, the very reverse of which we know to exist. Increased consumption, too, the natural consequence of a diminished price, and more ability to purchase, is obvious to the most careless observer, especially in the West. No special injury has, therefore, resulted to the South by this operation of the tariff.

But, to show that the producer pays the duty on the imported article, a case is put, well calculated to puzzle, but really involving a mere sophism. I refer to the case of the bale of woollens which the gentleman from South Carolina has supposed is received directly in exchange for cottons exported by the Southern planter, and which is stopped at the custom-house, and forty of the hundred pieces which it contains taken out as a tax to the Government. [P. 17, printed speech.] Now, as to the supposition that the bale of woollens is imported for the consumption of the planter, I have nothing to object against it, in the view of the subject that I am now taking. He does pay the duty, not in his capacity of producer or exporter, but in the capacity of importer and consumer; and, analyze the transaction, separate it into its four natural elements, which have by the honorable Senator been unnaturally combined, and it will be obvious. Let the Southern planter export his crop, lay it down in the Liverpool market, and sell it for the best price he can in cash. This, indeed, is always done; for there is no such thing as barter there, except through the medium of money, or bills, which are, for all effective purposes, money. Now, he sells his cotton for just the same price, whether he intends to bring home broadcloths or money. Here the transaction of the producer and the exporter ceases; the cotton planter has for his crop cash, which he may bring home with him, or, what is still better, leave on deposit with his English banker; his bills on that banker he sells to the Philadelphia or New York merchant at a premium, and he has his cash at home to be disposed of at pleasure. The Ohio farmer sends pork and beef to New Orleans, which is shipped to Charleston; or the Kentucky drover takes his horses, mules, and live stock, through the Saluda Gap, and they are sold to the planter. The planter pays with the cash which he has brought home, or by a draft on his banker in New York, and the exactions at the custom-house do not, thus far, affect the transaction in the remotest degree. The New York merchant who has bought the draft on England, pays it out for British goods, and brings them home; he pays the duty. Now, if the cotton planter purchases one-half these goods, and the Ohio farmer the other half, at the same price, is it not obvious that each pays his equal share of the duty? No refinement, no sophistry, however ingenious, can change the true character of the transaction. The consumer, and not the producer, pays the tax, and the several sections of the Union pay it in proportion to the amount they consume. As respects the importer and consumer, if the protected article is permanent-

ly enhanced in value by the duty laid on it for the purpose of protection, it is thus far a burthen, and its propriety and policy must be tested by comparing and balancing, as nearly as may be, its evils with its benefits. But if the price of the protected article be not enhanced, no burden whatever is borne, except what is necessary to sustain the revenue of the country, and no advantage is given by it to one class of our citizens over another.

But the honorable Senator from South Carolina (Mr. HAYNE) has told you, that, while other sections of the Union are flourishing, increasing in population, and rising in wealth, the condition of the South, that of his own State especially, under the operation of this system, is not merely one of unexampled depression, but of great and all-pervading distress; their once busy and populous cities crumbling into ruin, their fields abandoned, their hospitable mansions deserted, and the husbandman, with a heavy and despairing heart, tearing himself from the scenes of his childhood and the bones of his ancestors, to seek, in the wilderness, exemption from the oppression with which this policy has overwhelmed him.

Is this fancy, or is it fact? I am inclined to think the picture greatly overdrawn, although the glowing eloquence, the rich and fervid imagination, and the deep and impassioned tone of feeling in which it is shadowed forth, tend to give it a welcomed entrance into the mind, before it has passed the ordeal of the judgment. But, in determining upon fact, simple every-day fact, I would prefer the conclusions of a less powerful and a less excited intellect. There is too much of poetry in the description; it forcibly reminds one of the beautiful and eloquent lines of Doctor Goldsmith, in which he describes, with so much apparent truth and real feeling, the deserted fields and desolate habitations of the industrious peasantry of England, driven from their humble but happy homes, to seek shelter from oppression in the solitary woods of savage America—

> "Where wild Altama spreads its swamps around,
> And Niagara stuns with thundering sound—"

And it is said, I know not how correctly, that our poet lived and died strong in the conviction of the general correctness of the picture which he drew of the progressive decay and desolation of his country. But, sir, England was, in fact, increasing in population, and so also is South Carolina. The last census shows a small increase in the free population of the State, and a large increase of the slaves. The fields also must be cultivated as heretofore, for they yield an increased export product, and we are told that they now raise a much larger proportion than formerly of grain and live stock for their own consumption. Though by no means disposed to admit that South Carolina is plunged as deeply into the abyss of misery and despair, as has been here depicted, yet I doubt not that she prospers less than formerly, and less also than most other sections of the Union; for this there are abundant causes, independent of the tariff.

The Southern planter does not, like the hardy farmer of the North and West, lay his own hand to the plough; he neither holds nor drives; the culture of the fields is left to the overseer and the slaves, and their cultivation is without skill and without care. Year after year, the same fields are subjected to the same crop, and the same unceasing and unchanging tillage, without any means being used to renew or reinvigorate the soil. The fields are soon worn down by excessive cultivation, and cease to yield, as heretofore, an abundant harvest. Extensive emigration is also, without doubt, one of the causes which operates to check the prosperity of the older portions of the Southern States; but this emigration is induced by causes, and instigated by feelings, very different from those to which the gentleman has ascribed it. It is not want, or misery, or oppression, that induces it; the emigrant curses neither his country nor his lot; and his journeying is undertaken and executed with feelings the reverse of anguish and despair. Sir, it is the rich and fertile lands of the West, of which he may become the proprietor almost for nothing—a charming country in reality, fresh and rich, and fair, almost beyond example, but to which the imagination does not fail to add new beauties, and color even with ideal and unreal charms—it is this which operates upon the hopes, and elates the spirits, of the young and ardent sons of the South and East, and leads them to part from their fair fields and happy homes on the Atlantic shore, for fairer fields and happier homes in the far-distant West. Hence, sir, the giant stride with which our population has borne its march westward, the "lion's bound" with which we have sprung into the forest.

But this spirit of emigration, year by year, drains from the seaboard of South Carolina her most hardy, vigorous, and enterprising population. Cotton, the object of their culture, can be raised cheaper and more abundantly on the new and rich lands of Georgia, Alabama, Mississippi, Louisiana, and the territories of Florida and Arkansas; and, unlike the cumbrous article of grain and its products, can be transported from the interior at a small per centum on its market value.

I take leave to refer also to another cause, named by the honorable Senator from Kentucky, and which has, with the foregoing, a combined operation. The repeal of the laws of primogeniture—the equal distribution of the real estate among all the children, sons and daughters alike — however favorable to the wealth and prosperity of the people in other sections of the Union, does, owing to the peculiar situation and habits of the South, seriously affect their condition. Judging from the statistical tables which show the comparative increase of population in different sections of

the Union, and comparing that of South Carolina with others, I am led to the conclusion that one-fourth part of the free-born of that State, which reach the years of maturity, emigrate; and, by the existing laws, they carry with them, to their new homes, not merely their share of the personal estate of the family from which they are descended, but also of the land and slaves, which form the substratum of the wealth of the country. Thus, year after year, is there a regular and continual drain of the best and most efficient population of the State, and their wealth also—even their real property pays an annual rent, if I may so call it, to her emigration. But this is not all. The great increase of the slaves over that of the free population, shows that the emigrants do not generally take with them their proportion of slaves, but that they remain as heretofore, in some measure regardant to the soil. They have risen now to more than one-half the population of that State, and are fast gaining upon the whites in the ratio of increase; they, indeed, compose almost the whole laboring population of the country; they labor without judgment, for their intellects are not cultivated—without energy, for they labor without motive; hence, the acquisition of wealth from labor, its great and only real basis, must be small in a country situated like this, compared with what it is, where every man, with his own hand, cultivates his own farm, or watches over its improvement; where all are laborers, and all intelligent, industrious, and persevering—careful of the present, and provident of the future.

Sir, the curse of slavery, and not the tariff, is in truth the withering curse which blights the fair hopes of this fair and otherwise happy and favored land. It is not so much the drain upon her population, for in this other and prosperous States share her lot; but it is, that, while the sound and wholesome portion of the population flows off—the bold and enterprising freeman—the slave remains fixed to the soil, yearly consuming more and more of its products, and yearly displacing and sending into exile (if emigration be exile) more of the free-born of the land. I need not follow out the picture in anticipation of its consequences; the subject is one of deep regret and gloomy forebodings.

But one thing more will I take occasion here to remark. In many sections of the Union, and in foreign countries, too, public opinion has greatly erred as to the general feeling and conduct of the individual masters towards their slaves. So far as I have observed, (and my observation has been somewhat extensive, especially in Virginia and Kentucky,) there is nothing in it to shock humanity. On the contrary, the feelings of the masters towards them appear to be those of kindness and affection. And this evil, cast upon our Southern brethren, not by their own acts, or of their own choice, but by the cupidity of a foreign nation while we remained her colonies, is one for which they are entitled to any thing rather than reproach and censure. And it is an evil which, in the present state of public feeling, the Legislature of the Union cannot, in the more Southern sections of our country, either remove or mitigate. Philanthropy indulges visions of this kind, at present, in vain.

Another mode in which the same cause operates injuriously to that section of the Union, is, that it lessens their capacity for commercial enterprise. A negro slave is unfit for a ship carpenter or a sailor; and, in a country where there is no laboring class, except slaves, ships cannot be built, or manned, to the same advantage, as in the Eastern and Middle States, where laborers are freemen, and possess intelligence and enterprise for every undertaking, however arduous, or however varied. The navigating interest, therefore, independently of the tariff, must centre elsewhere than in the Southern States. And finally, the well-known and familiar habits of the Southern people—free, liberal, uncalculating—living to the full extent of their means, however ample, and trusting to their land and slaves as a perpetual supply, and, beyond that, improvident of the future. Time brings with it an increase of population, but not of wealth; and the decay and exhaustion of their soil, and the fall in the price of their staple, produces a depression which is severely felt, but which is unfortunately attributed to that which, of all things, is most remote from its real cause.

Need I add another to this long and mournful list of causes for the calamities under which our Southern brethren suffer, and of which they complain? I have explained the causes of the alleged decay of their navigating interest. Why is their commerce (as the honorable Senator says it is) transferred into the hands of the merchants of Philadelphia and New York, and carried on by their capital? I have already spoken of the habits of the Northern and Middle States—the steady eye which they have to the future—their disposition to accumulate and embody capital, and their skill to direct it to every prosperous enterprise. They have the ships—they have the seamen—they have habits of life and a turn of mind fitted to mercantile pursuits—and they have capital; with or without a tariff, the commerce of the South must have fallen into their hands.

These causes combined, operate on the city of Charleston, the decay of which has been so eloquently and feelingly depicted by the gentleman from South Carolina; and though disposed to think his coloring somewhat too dark, I cannot for a moment doubt the general correctness of the sad picture which he has drawn—that there has been a great and marked decay in the wealth, the business, and the prosperity of that city. But, sir, independently of those causes which I have named, and which operate alike upon the older portions of South Carolina, there is one other, which tends to depress the business of Charleston alone. There have sprung up in the interior a range of populous

and flourishing towns, Columbia, Augusta, and Camden, which, within a few past years, have been rapidly growing in commercial importance, and have cut off almost wholly the interior trade from Charleston, making that city a mere place of transit, or rather of shipment.

Sir, these causes which I have detailed—and I appeal to Southern gentlemen for their correctness and truth—have operated with combined effect, for years, upon the destinies of this people; and are they not sufficient, though checked and opposed as they may be by the riches of nature which an all-bountiful Providence has scattered over the land—are they not sufficient to produce all the depression and all the misery which is vainly supposed to spring from the protecting system?

I cannot, therefore, on the most full and careful consideration which I have been able to give this subject, concur with gentlemen in the opinion that the protecting system operates oppressively on the Southern or any other section of the Union. In the West, so far as experience can test its efficacy, it has produced, and is producing, all the good which its friends and supporters have ever predicted. From the state of ruinous depression to which agricultural interests had sunk, in 1824—an era which our Western farmers will long bear in remembrance—they have gradually risen, under the fostering influence of this system, connected and consorted with that of our internal improvement, until they have reached a point of prosperity, which, though not rich, or towering, is sufficient to spread comfort and gladness over our happy land.

THURSDAY, February 23.

Territorial Judges.

The following resolution was submitted by Mr. HOLMES, (and agreed to on the following day:)

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of providing, by law, for a more permanent tenure of office for the judges of the territories of the United States, or for a different mode of appointing them than is now provided.

MONDAY, February 27.

The Tariff—Reduction of Duties.

The resolution of Mr. CLAY being resumed,

Mr. DALLAS said: Fifty-six years have ripened this confederated nation to a condition of unprecedented and incontestable greatness; greatness in extent; greatness in resources; greatness in moral and intellectual character; greatness in political structure and jurisprudence; greatness in the rénown which follows just and successful wars; and greatness which results from the acquisition of a before unknown sum of human contentment and freedom. Providence has smiled upon the work of our progenitors, and has blessed its progress. The whole civilized world has marked, with reiterated astonishment, the rapidity of our advancement; and, at this moment, from the Pisgah of Eastern eminence, exulting and longing myriads are pointing to our Western institutions as the objects towards which they have yet fruitlessly journeyed through a wilderness of ages and of wretchedness.

Who is there, sir, that, seeing this great result of our councils and forecast, can desire a change in the organic structure or practical legislation by which it has been effected? I have heard much on this floor of sectional divisions, sectional interests, sectional doctrines, sectional feelings, and sectional parties; of the East, the South, and the West; but I cannot adopt the language, and will not entertain the sentiments by which it is prompted. I claim no peculiar merit for the noble commonwealth whose representative I am, for her uniform devotion to the union and democracy of these States—for her unwavering co-operation in all the efforts which have carried the nation to its present exaltation; she has done no more, and no less, than other portions of our republic. But I will not recognize the right, claimed from what quarter it may be, to mar and deface the monument of our common labors; to tear down piecemeal, or at a blow, the structure which every hand has equalled and simultaneously contributed to erect; to prostrate and crumble into dust the fairest fabric ever yet reared by the energies and virtues of confederated freemen.

If, sir, in the picture I have sketched of the condition of our country, shades have been omitted which really exist, they ought to be introduced; they ought to be frankly met, and the assembled wisdom of the legislative bodies should anxiously devise remedies and relief. The impressive and gloomy description of the Senator from South Carolina, (Mr. HAYNE,) as to the actual state and wretched prospects of his immediate fellow-citizens, awakens the liveliest sympathy, and should command our attention. It is their right; it is our duty. I cannot feel indifferent to the sufferings of any portion of the American people; and esteem it inconsistent with the scope and purpose of the federal constitution, that any majority, no matter how large, should connive at or protract the oppression or misery of any minority, no matter how small. I disclaim and detest the idea of making one part subservient to another; of feasting upon the extorted substance of my countrymen; of enriching my own region by draining the fertility and resources of a neighbor; of becoming wealthy with spoils which leave their legitimate owners impoverished and desolate. But, sir, I want proof of a fact, whose existence, at least as described, it is difficult even to conceive; and, above all, I want the true causes of that fact to be ascertained; to be brought within the reach of legislative remedy, and to have

that remedy of a nature which may be applied without producing more mischiefs than those it proposes to cure. The proneness to exaggerate social evils is greatest with the most patriotic. Temporary embarrassment is sensitively apprehended to be permanent. Every day's experience teaches how apt we are to magnify partial into universal distress, and with what difficulty an excited imagination rescues itself from despondency. It will not do, sir, to act upon the glowing or pathetic delineations of a gifted orator; it will not do to become enlisted, by ardent exhortations, in a crusade against established systems of policy; it will not do to demolish the walls of our citadel to the sounds of plaintive eloquence, or fire the temple at the call of impassioned enthusiasm.

What, sir, is the cause of Southern distress? Has any gentleman yet ventured to designate it? Can any one do more than suppose, or argumentatively assume it? I am neither willing nor competent to flatter. To praise the honorable Senator from South Carolina would be

> "To add perfume to the violet—
> Wasteful and ridiculous excess."

But if he has failed to discover the source of the evils he deplores, who can unfold it? Amid the warm and indiscriminating denunciations with which he has assailed the policy of protecting domestic manufactures and native produce, he frankly avows that he would not "deny that there are other causes besides the tariff which have contributed to produce the evils which he has depicted." What are those "other causes?" In what proportion have they acted? How much of this dark shadowing is ascribable to each singly, and to all in combination? Would the tariff be at all felt, or denounced, if these other causes were not in operation? Would not, in fact, its influence, its discriminations, its inequalities, its oppressions, but for these "other causes," be shaken by the elasticity and energy and exhaustless spirit of the South, as "dew drops from the lion's mane?" These inquiries, sir, must be satisfactorily answered before we can be justly required to legislate away an entire system. If it be the root of all evil, let it be exposed and demolished. If its poisonous exhalations be but partial, let us preserve such portions as are innoxious. If, as the luminary of day, it be pure and salutary in itself, let us not wish it extinguished, because of the shadows, clouds, and darkness, which obscure its brightness or impede its vivifying power.

Sir, there are "other causes" than the policy of protection, to which our Southern brethren might, and, in my opinion, ought to impute the deplored evils under which they suffer. Some of these are adequate to produce, and, if not providentially arrested in their progress, will unavoidably produce, calamities far more extensive and desolating than any yet experienced. Every day, every hour, augments their force, enlarges their sphere, and manifests their agency. Nor is their onward march a sketch of fancy, or the conclusion of plausible argument: it is a fact, discernible to every eye, known to every well-informed man in the country, appreciated by every candid one, and disputed by none. The delusion and mistake lie in considering these "other causes" as secondary and slight, instead of primary and powerful: in visiting upon a subject of political dislike, consequences fairly and obviously attributable to specific, natural, social, or moral agencies: in fastening upon the tariff, as fanatics are apt to fasten upon their reputed conjurer or wizard, the storm of the elements, the barrenness of plantations, the debility arising from constitutional disease, and the mysterious operations of decay.

I have said that "other causes" exist, adequate to all the lamented distresses. Among these, is one which, alone, unaided by co-operation from others, necessarily leads to results of wide-spread, protracted, and conspicuous embarrassment and desolation. The great Southern staple, cotton, is the product of an exhausting plant—a plant which feeds voraciously upon the fertility and strength of the best soils. Every returning season finds the earth in which it is cultivated less competent to supply its exactions, and sustaining, therefore, a less hardy and generous growth. The ultimate dissatisfaction of the planter, whose produce thus annually diminishes, is inevitable. He struggles, perhaps for years, in fruitless efforts to revive the original fecundity of his farm; to arrest, at least, its gradual decrease from eight or six bales, by the hand, to two or three: and he submits to the reduction of his profits and many deprivations, rather than abandon a home to which he has become habituated, a neighborhood in which he has acquired character and friends, and a social circle to which his family are endeared and attached. But the final period of comparative sterility must arrive; the season wherein labor will be unrewarded, granaries unreplenished, and means unrenewed, must come to him or to his successor; and, when that period is at hand, the dejected and disappointed owner looks elsewhere for consolation and resource. Then it is, sir, the impelled and adventurous husbandman of North and South Carolina, while he has yet scarcely entertained the project of removal, casts his anxious eyes upon the immense region, in his immediate vicinity, of land, much cheaper than in his native State, of virgin soil, upon whose charms his favorite voluptuary has not yet battened, of equal, if not superior, climate, and of ascertained fitness in every respect, for the plant to which his skill and industry have long been adapted. Is it surprising that this boundless range of territory should attract capital and enterprise to the culture of cotton from all parts of the country? That the quantity of production should rapidly augment, and its relative value of price fall, or that it should offer temptations, irresistible by conscious in-

dustry and frugality, to abandon the comparatively spent farms heretofore tilled?

Men, sir, will change their abodes, under the circumstances to which I have adverted, by an impulse which may almost be regarded as a law of our nature. The serious concerns of life are not, cannot, and ought not to be regulated by the amiable sentiments which connect themselves with the recollections of the past. We quit the homes of our ancestors, the graves of our kindred, the hills and valleys of our childhood, and with many a sigh, it is true, and with many a longing, lingering look behind; but we quit them all, with proud and self-sustaining resolution, in pursuit of subsistence, of settlements for our children, of personal and permanent independence. Such have been the course of human conduct, and the career of human action, in all ages, and in every quarter of the globe. The land of promise was, and always will be, the goal of ceaseless emigration. We, sir, especially, are a migratory people. With almost every range of climate, and an unlimited extent of land wherefrom to choose, "a world before us, and Providence our guide," our readiness to improve the condition of life, by entering upon new scenes of activity, is at the same time unobstructed by the difficulties and doubts which repel the inhabitants of other countries. Our political institutions are everywhere throughout our continent the same. Our language, with inconsiderable and few exceptions, is uniform; our medium of exchange, money, coin, and even one species of bank paper, is identical; the great practical hindrances are unknown to us; and we may pass through every degree of salubrious temperature, and over thousands of leagues, changing in our progress nothing but the sky and the soil. Hence it is that we have long since turned our backs upon the Atlantic and its shores, to gaze upon, and to bend our steps towards the rich plains, the laughing valleys, the thronged rivers, and the health-inspiring hills, of the American West.

If, then, sir, the appalling picture of the honorable Senator from South Carolina be strictly true; and if it be also true, as no one has been or can be adventurous enough to deny, that the regions lying immediately to the west of those districts which his picture is designed to represent, are open and still opening for a cheaper and more abundant growth of the very cotton to whose depreciated value he ascribes Southern distress and complaint, I recognize, in the cause to which I have referred, an adequate cause; a cause absolutely distinct from the tariff: a cause, in its origin and effects, transcendently beyond the course of any policy; a cause, out of the reach of legislative remedy; a cause which human agents are utterly incompetent to control, arrest, mitigate, or modify.

Having thus, sir, removed from debate, or from my own mind, the oppressive weight of so much of the argument of the Senators opposed to me, as consists of glowing and gloomy pictures of human wretchedness and local desolation, I must be permitted to state my impressions of what this great national policy, rather disingenuously termed our, or the American system, truly is.

Its foundation, Mr. President, is the broad and impregnable principle of national independence; and its object and tendency are to give to the American people, the entire people, the people, as a mass, and in detail, employments of their own, resources of their own, strength of their own, and happiness of their own; which cannot be injuriously affected in war or peace, through stratagem or design by any other people. Such are its cardinal characteristics. If there be any portion of the means for effecting this policy, which does not square with these characteristics, to that I am opposed. If, in attaining these fundamental and invaluable objects, partial, occasional, or sectional injury be inflicted, that I would remedy or redress, by exerting the force of all our institutions as best I can. The good of the whole is rarely, if ever, accomplished without some sacrifice to at least a part: but, undoubtedly, the dangers and inconveniences of every scheme of legislation should be contracted to as narrow a sphere as possible, should be anxiously mitigated as much as possible, and should ultimately be repaid as fully as possible.

Sir, this is no selfish policy, in the odious sense of that epithet. To the American people, as contradistinguished from any and every other people, it may be so. Nature, in the creation of peculiar languages, various climates, and different forms of Government, has compelled distinct and separate masses of men, communities, and nations, to be selfish. It is their state of nature, liable to be modified, as civilization leads to intercourse, barter, and reciprocity, by convention and mutual agreement only. National selfishness results from necessity, and is beyond reproach. Without it, independent existence is unimaginable: without it, we could have no country.

But honorable Senators have described this policy as emanating from, and exclusively useful to, rich capitalists, monopolists, and manufacturers. If it be so, let us abandon it. But, before acquiescing in the description, it is our duty to reflect and to examine.

As a policy, sir, adapted to the welfare of any nation, it emanates from remote antiquity, and has been, more or less, cherished and practised by every people. Modern philosophy may sometimes be disadvantageously contrasted with ancient wisdom, as beautiful abstractions are often disproved by a succession of experiments. Egypt, in her grandeur, Greece, in her brilliancy, Rome, in her omnipotence, deduced their magnificence and vigor, at least in part, from this "accursed" policy. It was known to them all; it was enforced by them all; and it aggrandized them all. These are great names! and the annals of history tender for enumeration many others familiar to the learning of those whom I address.

It is true, as the Senator from South Carolina has said, that the political economy of free trade, however captivating in theory, is, indeed, "a discovery of modern times." It has no existence but in books. It never has been tested, and it never can be tested, without the Utopian resort to a Congress of nations—a resort recommended by some pamphleteer, whose treatise, laid upon our tables within a few weeks past, seems to come in aid of this "discovery of modern times"—a resort, which like another Congress, that of Panama, will prove "introuvable," anxiously and pompously sought, but never found.

I have said that once the patriotism of Pennsylvania sided with her policy: and I agree that now her interests are involved in its steady prosecution. She has incurred, within a few years back, a greater public debt than the existing one of the nation. Her internal improvements, immense and inestimable, have been mainly and vigorously directed, under the auspicious shield of your protective system, to the development of her own resources and the encouragement of her own industry. Her legal code has given every facility to the attainment of public convenience, free intercourse, and safe transportation. The noble turnpikes, broad highways, countless canals, solid bridges, and splendid railways, which intersect and unite all parts of her territory, are the products of a full reliance in the stability and excellence of the policy. Do you suppose that she would have gone thus far in expenditure, merely to become the recipient and channel of exotic fabrics—of European husbandry and manufactures? No, sir. Her purpose has been to scatter her own rich ores among her laborious people: to bring into operation her water power: to supply her mechanics and her poor with her various woods, her inexhaustible fuel, her salt, her minerals: and to carry comfort and independence to the homestead of every farmer.

What are the fruits of this Pennsylvania policy? I will illustrate them by recurring to the single article of her own, iron. Its quality is unquestionably equal, if not superior, to that of England. Its cohesiveness is greater—a chain of an inch and a half in diameter not breaking till burdened with a weight of sixty tons, while a similar English one yielded to forty-three tons only: one of an inch and an eighth broke not, till oppressed by full forty-one tons. For welding also, it is superior; superior for spikes and bolts employed in constructing ships; superior for wheel tires; and at least equal for use on railways. Our iron-workers are willing to give, and actually do give, twenty-five per cent. more for the American than the English article.

The effect of our policy on this essential metal has been strikingly evinced, first, in augmenting the number of its factories and its quantity: secondly, in reducing the prices of its manufactures: and, thirdly, in disseminating widely, through its agency, the means of subsistence and comfort.

1. Since the year 1824, thirty-four new furnaces have been erected in Pennsylvania, west of the Alleghany mountain—each forming, not a mine of wealth for the rich monopolist, but a nucleus for a busy, thriving, and joyous village.

During the years 1829 and 1830, the quantity of iron rolled at Pittsburg alone increased from three thousand to more than nine thousand tons.

2. The reduction of the prices was a necessary consequence of the domestic competition, created and excited by the policy. Since 1818, 1819, and 1820, the implements of husbandry have sunk in price thus: Axes, from twenty-four dollars to twelve dollars by the dozen: scythes, spades, and common shovels, fifty per cent. Iron hoes, at nine dollars by the dozen, have given way to steel ones, at four dollars by the dozen: socket shovels, once sold at twelve dollars by the dozen, now sell at four dollars and fifty cents: iron vices, once at twenty cents by the pound, now at ten cents: braziers' rods were, in 1824, imported at three hundred and thirteen dollars by the ton, and now are made at one hundred and thirty dollars: and steam engines have actually, since 1823, fallen fifty per cent. in price, while at the same time the amount of material and labor of which they are composed, has nearly doubled.

3. The extent to which the manufacture of this substance contributes to diffuse the means of support and comfort, cannot be precisely estimated as to any particular district of country. The proportion of its effective action upon Pennsylvania may alone be presumed from a fair calculation of its aggregate value in the Union, and a general knowledge of the numerous and important establishments scattered throughout that State. It is ascertained, with reasonable certainty, that, in the small county of Delaware, about two hundred and thirty-five persons annually produce a value of two hundred and seven thousand one hundred and seventy-five dollars, which undergoes its local and natural distribution. In the large counties of Centre and Huntingdon, extensively engaged in the business, the computation necessarily rises much higher. Now, it is believed, from such returns as have been collected, that in the United States there are no fewer than twenty-four thousand nine hundred and seventy-nine iron workmen, each having, on an average, four individuals dependent upon his labors: one hundred and twenty-four thousand eight hundred and ninety-five human beings are therefore provided with adequate livelihood by this single branch of industry in its earliest stages. Supposing each workman to receive the modicum of one dollar a day, or say three hundred dollars a year, and there are disseminated in wages no less than seven million four hundred and ninety-three thousand seven hundred dollars: their fabrics, finding their way to various markets, scatter, as they advance, the

charges of transportation, computed to exceed one million two hundred and fifty thousand dollars: and thus the entire process furnishes, for diffusion among the laboring, meritorious, and most useful masses of society, an annual sum little short of nine millions of dollars. The proportion of this imposing value which falls to the lot of Pennsylvania, may be imagined, but cannot be asserted.

The relation, Mr. President, of the observations which I have had the honor to submit to the consideration of the Senate, to the two resolutions before us, is obvious and direct.

The first resolution—that of the Senator from Kentucky—presupposes the national debt paid, and proposes to reduce the duties on articles imported, as far at least as is consistent with the principle and practice of protecting the great national interests involved in domestic manufactures.

The second resolution—that of the Senator from South Carolina—proposes to reduce the revenue to the expenses of Government, and to abandon, gradually, but certainly, the principle and practice of protection.

The first asserts protection, but is perfectly compatible with modifications in detail: the second, in design and spirit, repudiates modification wholly, and insists upon entire relinquishment. It is possible and proper for any one to vote for the adoption of the first, and yet feel at perfect liberty to acquiesce in just and reasonable alterations of the policy. It is impossible and improper for any one to vote for the second, who is not prepared to lay the axe to the root, and to demolish the entire edifice of protection, to deny the existence or salutary nature of the power, in the federal system, to pronounce a sentence of condemnation and usurpation upon all who have preceded us, and to throw back upon the separate States, as unfit or unworthy of retention, the delegated and important authority of fostering the industry of the American people.

Believing, sir, as I do, that whatever may have been the character of its origin, this Government actually emanates, under the forms of an adopted constitution, from the people of the United States, and is essentially as well national as federative: that the powers to levy imposts and to regulate commerce are powers not merely expressly granted by the States, but are powers without which the Government ought not and cannot exist: that the grant of those powers was accompanied with the full knowledge that they had been universally, and would be here, made the means of protecting domestic produce and manufactures from the injurious courses and incursions of other countries; that, in fact, such protection was one of the moving objects of the revolution, of the Union, and of the explicit delegation of those powers: and that a policy was promptly established in conformity with these views, and has unceasingly been pursued. I am unwilling, and, consistently with my understanding of the senatorial oath, I am unable, to sanction the proposition of the gentleman from South Carolina, by which all this is virtually, if not directly, repudiated and denied.

I am inflexible, sir, as to nothing but adequate protection. The process of attaining that may undergo any mutation. Secure that to the home labor of this country, and our opponents shall have, as far as my voice and suffrage can give it to them, a "*carte blanche*" whereon to settle any arrangement or adjustment their intelligence may suggest. It might have been expected, not unreasonably, that they who desired change should tender their project; that they would designate noxious particulars, and intimate their remedies; that they would invoke the skill and assistance of practical and experienced observers on a subject with which few of us are familiar; and point with precision to such parts of the extensive system as can be modified without weakening or endangering the whole structure. They have forborne to do this. They demand an entire demolition. Free trade is the burden of their eloquence; the golden fleece of their adventurous enterprise; the goal short of which they will not pause even to breathe. I cannot join their expedition for such object. An established policy, coeval, in the language of President Jackson, with our Government; believed by an immense majority of our people to be constitutional, wise, and expedient; may not be abruptly abandoned by Congress, without a treacherous departure from duty, a shameless dereliction of sacred trust and confidence. To expect it, is both extravagant and unkind. But show us your scheme: call it one of revenue exclusively, if you will: names and epithets are immaterial: let it accommodate our policy with the new fiscal attitude of the nation, and with your wishes; and, for one, I will give it the favorable hearing and consideration to which the purity of your motives and your alleged sufferings certainly entitle it. It is not impossible, sir, (though I confess myself a very feeble instructor on this vast business,) that some rational project may spring from sober and analytical inquiry, to reconcile us all. I have heard intimated that new regulations in collecting the revenue might make the protection to manufactures even more effectual than it now is, and yet remove every cause of complaint. Let gentlemen set them forth for candid scrutiny. Shall it be by exacting the payment of duties in cash? By a system of licenses to auctioneers? By abolishing the assessment of duties on minimum values? Develop the scheme, and enable us to judge. Do you prefer attaining your purpose by specific reductions of duty? On what articles, then? to what extent? by what gradual decrease? All we desire, to enable us to prove our readiness to accommodate this entangling and distracting theme of legislation, is, that generalities may be relinquished; that an unconditional surrender to the Utopian theory of free trade may

not be invoked; and that such modifications of the existing policy may be chalked out as will be useful to our opponents without being destructive to the policy itself.

I lament, Mr. President, having been obliged, in the discharge of a supposed duty, to trespass so long upon the indulgent attention of the Senate. I would close, cheerfully, and forbear, in conformity, with my original determination, adverting to any topic not directly connected with the subject of discussion. One matter, however, has been incidentally introduced, and has, in truth, been often vehemently urged upon our reflection, as to which I might be deemed a faithless and unfeeling representative were I to abstain from expressing the decided sense and anxious sentiments of the patriotic community who sent me here.

Sir, I have nothing so much and so deeply at heart, as the maintenance of the harmony and perpetuity of this Union. Whatever may be the contrary and irreconcilable appearance of opinions, no danger is to be apprehended, and no difference can be contemned, while the preservation of our constitution, and the good of the country, are the leading and paramount objects of us all. If there be any—certainly there are none upon this floor—who seek to distract the peace and dissolve the bonds of our federative Government; who would put at hazard, in pursuit of temporary projects, or to indulge ambitious aspirants, the repose and institutions of the republic; who contemplate change and revolution; I beseech such men to extend their forecasting vision into the future, and to confront posterity. Let them be warned, by anticipating the judgment of that tribunal. The excitements of the day may be gratified: they may delude themselves into the belief that they are laboring to vindicate the constitution, or to uphold the principles of human liberty; but if they recklessly involve the American people in the horrors, uncertainties, and fatal consequences of civil war, and of violent disruption, they must be content to receive, as a merited reward, an immortality of detestation. Their party and paltry pretexts will be forgotten; their refined discriminations in theory, and their high-wrought declamation, will be forgotten; even their virtuous passions will cease to extennate their offence; and all posterity, struggling in vain to recombine the elements, and to rebuild the edifice of our great, and glorious, and happy confederacy—amid the desolation of perpetual conflicts, and in the darkness of sectional bondage—will doom them to loud, deep, and everlasting execration. Let no man, sir, seek elevation or renown, at the price of the National Union and tranquillity. He will never find it. Failing, he must rank, during life, among the few outcasts whom we have yet engendered; and if he achieve his country's ruin, when dead, the burning lava of universal hatred will roll hissing over his grave; and, though like "the aspiring youth who fired the Ephesian dome," he should acquire fame, it will be the fame of bitter and boundless abhorrence.

FRIDAY, March 2.

The Tariff—Reduction of Duties.

The Senate then again proceeded to the consideration of Mr. CLAY'S resolution, together with the amendment proposed thereto by Mr. HAYNE.

Mr. ROBBINS, of Rhode Island, rose, and addressed the Senate as follows:

The question before us, as I take it, is one of expediency. Is it expedient to give to the industry of the country the market of the country, by means of protecting duties, in preference to leaving that market open to the equal competition of foreign industry without restriction?

I know it has been urged here, and much insisted on elsewhere, that the expediency is not the only question; that a prior and paramount question is, has Congress the power, the constitutional power to do this?

It is not denied that Congress has claimed and exercised this power, from the commencement of the Government to this hour; that it is now in practical operation; and that never, till since 1828, has it been seriously, if at all, questioned, by any party, at any time.

There are two or three reflections, which, if duly weighed, I should think would satisfy every reflecting mind that Congress, in exercising this power, has not usurped undelegated power.

If the power of taxation, *ad libitum* in amount, be in Congress, the exercise of that power must be discretionary with Congress; and whether, in any given instance, it shall be exercised, or to what extent it shall be exercised, must always be a question of expediency, and never can be a question of constitutional right. Now, the power of taxation is expressly given to Congress, and given without limitation as to the amount of revenue to be raised by it. That amount is left to the discretion of Congress.

Again: The regulation of commerce with foreign nations is expressly given to Congress, and given without restriction. Now, a tariff of duties on imports is strictly and literally a regulation of commerce with foreign nations; and whether that tariff shall be higher or lower, or what it shall be, must be a question of expediency, and cannot be a question of constitutional right.

Besides, this power, as has been well stated, and ably argued by the honorable gentleman from Tennessee, (Mr. GRUNDY,) is essential to national sovereignty; and to deny it to our Government, would be, so far, to lay our country prostrate at the feet of every other sovereignty in the world. If all other sovereignties could wield this power against us, (as, undoubtedly, they can, and do,) and we could not wield it against

them in self-defence——but the supposition is intolerable, and I will not carry out the idea, and depict the consequences.

For what American, justly proud of his nation, could brook, for a moment, the idea of a crippled and subordinate sovereignty, that could not meet any other and every other national sovereignty, with power against power, with prerogative against prerogative, as an equal? National sovereignties, whatever may be the form of the National Government, have all the same attributes; otherwise, they would not be equal and independent sovereignties. God forbid that this Government should ever admit the idea, or act upon the idea, of being an inferior, and, therefore, a degraded sovereignty! If, then, you admit (and who will deny it?) that our Government may exert this power against other Governments, to vindicate our equal and just rights, you give up the whole controversy; for then you admit the existence of the power in the Government. The power being admitted, its exercise, in all cases, must be regulated by the discretion of Congress.

How, then, I ask, can it be contended that, in exercising this power, Congress has usurped undelegated power?

If, instead of saying this, you vary your language, and say that Congress, in fixing a tariff of duties on imports, with a view to protection, has abused discretionary power, it brings the inquiry precisely to what I stated it to be—an inquiry as to the expediency of the protecting policy.

And let it be recollected that the question is not, whether a new policy, and hitherto unknown to the Government, shall now be adopted; but whether a policy, coeval with the Government itself, which has now been pursued for forty years and upwards, and with a gradually increasing intensity; which is now in the full tide of experiment; with which interests, almost too vast to be calculated, and hardly to be conceived, have grown up and are interwoven, and on which they are dependent—the question now is, whether this policy shall be continued, or shall be abandoned. Though this is really the question; though these considerations carry with them an imposing weight towards settling this question; yet I am not willing to rest it, and leave it to be decided on these considerations: for I am convinced that the policy is the true policy of this country; and that, if it had never been adopted, it ought now to be adopted; that we are invited to it by other considerations, that are irresistible.

No State ever became great by its policy, but by a steady and persevering pursuit of that policy; and wonderful is the efficacy of such steadiness and perseverance. I beg leave to refer to a few instances.

Great Britain owes her astonishing opulence and power to this steadiness of pursuit. It is now about two hundred years since she began in earnest the policy of securing to her own industry the monopoly of her own markets; and never for a moment has she relaxed in the least from the pursuit of that policy. It involved her in one war; but no force without, no complaint, no clamors within, ever induced on her part any, the least wavering, in the pursuit. The astonishing results, I have just now given. Other nations have not profited equally by the policy, only because they have failed of equal steadiness in the pursuit. With them, the policy has been fluctuating; sometimes pursued, and sometimes abandoned, and sometimes relaxed into a "judicious tariff." It is hence that they have been thrown so much in the rear of Great Britain. But their eyes are now opened; the scales have fallen from them; they are wide awake to the importance of this policy; and Great Britain can no longer delude them with the fine theory of her Adam Smith, which she recommends to them, but repudiates for herself.

Again: Ancient Rome was once an inconsiderable village, on the banks of the Tiber. That village reared itself into a vast empire, embracing the fairest portions of the habitable globe; extending, on one line, (as the poet expresses it,)

"A Gadibus usque
Auroram et Gangen:"

"from Cadiz to Aurora and the Ganges;" on the other, from the burning desert of Lybia to the Danube and the Rhine—an empire of which all present France was but a province, and Great Britain but an appendage of that province. In Europe, in Asia, in Africa, she saw her eagles, like the delegates of her Jove, bear her thunders in triumph over their subjugated and trembling nations. How is this prodigy to be accounted for? Solely by steadiness of pursuit. That ambitious village proposed to herself the acquisition of military power, and nothing else—

"Hæ tibi erunt artes; pacis que imponere morem,
Parcere subjectis, et debellare superbos:"

and the whole scheme of her policy had reference to, and was concentered in, that leading object; and that policy was steadily, and unwaveringly, and exclusively, pursued, for seven hundred years. The same policy that progressively reared up this gigantic power against the world, afterwards sustained it over the world for another seven hundred years. The power and the policy fell together. Rome remained invincible, till corruption, after having triumphed over every thing else, came at last to triumph over her military institutions—then Rome fell, and avenged the conquered world with her own suicidal hand.

But the most interesting instance of the efficacy of this steadiness of pursuit was given by the city of Athens; the most interesting, because the object was most so. From the earliest times, Athens aspired to literature and the elegant arts. They were made, Montesquieu remarks, a direct and leading object with the

Government; singular in this respect, and differing from every other. By a steady pursuit of the policy adopted with a view to this end, the city of Athens became such a monument of the arts, that even her imperfect and dilapidated remains are at this day the wonder of the world. What splendors, then, must she have emitted in the day of her splendor! When, in her freshness, she met the morning sun, and reflected back a rival glory! When she was full of the masterpieces of genius in every art—creations, that were said to have exalted in the human mind the ideas of the divinities themselves! The fervid eloquence of Demosthenes failed, unequal to the task to do justice to those immortal splendors, when employed, as it occasionally was, for that purpose, in his addresses to the Athenian people. It was by the steady pursuit of the same policy, that their literary works of every kind (and in every kind they were extremely numerous) came to be equally the masterpieces of human genius; and being more diffused, and less impaired by the injuries of time, than the other monuments of the arts, they were, and still are, more the wonders of the world. They were carried to such a height of perfection, that, after it, the Athenians themselves could never surpass them; while others have never been able to equal them. Now, what has been the effect? Literature and the arts have gathered around that city a charm that was, and is, felt by all mankind; which no distance, no time, can dispel. No scholar, of any age or clime, but has made (in fancy, at least) a pilgrimage to its shore; there to call around him the shades of their mighty dead, whose minds still live, and delight and astonish in their immortal works. It is emphatically the city of the heart, where the affections delight to dwell; the green spot of the earth, where the fancy loves to linger. How poor is brute force—even the most magnificent, even the Roman—compared to the empire of mind, to which all other minds pay their voluntary homage! Her literature and her arts acquired to Athens this empire, which her remains still preserve, and always will preserve. In contemplating the phenomenon of her literary achievements, a great and profound writer could not forbear saying, "that it seemed a providential event, in honor of human nature, to show to what perfection the species might ascend." Call it providential, if you please—as every event is, in some sense, providential—but it was the effect of artificial causes, as much so as the military power of the Romans; it was the effect of a policy, early adopted, and always afterwards steadily pursued. I know the opinion that ascribes all this to a peculiar felicity of nature. Horace, I know, says—

"Graiis ingenium; Graiis dedit ore rotundo
Musa loqui; præter laudem nullius avaris."

But what gave them that absorbing avarice of fame? It was infused into them by their institutions; it was that one universal sentiment, generated by those institutions; and what he calls the gift of genius, bestowed by the muses, was the common mind, exalted and refined by the operation and force of the same institutions. It was these which had refined an Athenian mob, as the Athenian people are sometimes called, into an audience of critical taste. The Attic eloquence, called so by way of pre-eminence, was but a conformity to the requirements of that taste.

Such is the wonderful efficacy of steadiness of pursuit, (as we have seen displayed in those instances,) by a nation pursuing national objects by adequate means.

But to return to this protecting policy. It seems to me strange, passing strange, that enlightened, and reflecting, and patriotic men should doubt the expediency of this policy for our country, or be cold in the pursuit. But the bitter hostility it encounters from such men, is to me astonishing; it puzzles and confounds me when I would account for it. But for my respect for them, I should say it was like the fanaticism of hallucinated minds, feeding on their own chimeras; so irrational, so visionary, it appears to me, to impute any distress that may exist, in any part of our country, to this policy as its cause. It appears to me like the insanity that mistakes a friend for a foe, and under that delusion is fatally bent on destroying that friend.

We have an ample revenue from imports, an increasing revenue from imports, and made so by this very policy; unincumbered with debt, or soon to be disencumbered; ample for our civil list; ample for all the works of external defence, and all works of internal improvement—works called for by all the interests of the country—works that would cost the Government nothing but the advance of the capital, to be again returned to the Treasury with interest—works that would reimburse themselves, ten times told, in the increased wealth of the country thereby. And this policy, from which this ample and increasing revenue springs, as from a perennial fountain, is to be abandoned; not suspended, but abandoned, now and forever! The idea of improving the condition of the country for intercourse is to be abandoned now and forever, at least, so far as this Government is to be concerned. The depreciation, the loss, the ruin, as to works of this kind, now in being or progress, whether by States or individuals, which will be involved in the abandonment of this policy as its necessary consequence; the final bar, as another necessary consequence of such abandonment, to further like enterprises, either by States or individuals; the entire and the eternal loss of this whole object to our country, are disregarded, and treated as trifles light as air. This ample revenue—ample for all the purposes indicated, and ample for the further purposes of laying those foundations which, in due time, would make this country as illustrious in mind, and its im-

mortal productions as pre-eminent for physical resources and prosperous condition—this ample revenue, that does not bear upon the country with the weight of a feather—that is not felt by the people as a burden, more than the air they breathe, is to be abandoned, and for what? To favor foreign industry, at the expense of our own: for, whatever may be intended, this will be the effect. The stimulus it gives to our industry, and the increased profits of that industry, make the supposed burden merely imaginary. Besides, the necessary effect of the policy is to reduce prices; this is not denied, nor can it be; but it is said the effect is not immediate. In legislation, are we to look only to the present moment and immediate effect? Is the State the being of a day? Have we not children to come after us? Will they not have children to come after them? Have those who are to descend from us no claim to our providence for their good? The patriot statesman acts for the State, and with reference to the being and the well being of the State, now and hereafter—for a long hereafter—and in the hope of a never-ending hereafter. Are we, as patriot statesmen, in order to avoid a slight and transient burden to ourselves, (if it be one,) to throw away the opportunity and means of providing for the great and permanent interests of the country for all future time?

WEDNESDAY, March 7.

Apportionment Bill.

The Senate resumed the consideration of this bill—the question being on the amendment submitted yesterday by Mr. WEBSTER.

[The main object of the amendment is simply to approximate more nearly to an equitable representation, by giving to each State, having a fraction exceeding a moiety of the ratio representation, one additional member.]

THURSDAY, March 8.

Apportionment Bill.

The bill was then again taken up, together with the substitute offered by Mr. WEBSTER, and the motion of Mr. FORSYTH to strike out from the substitute the clause providing for the representation of fractions.

Mr. CLAYTON contended that no apportionment bill had ever passed, which did not, in effect, represent fractions. The bill of 1792, rejected by President Washington, represented fractions, and was rejected solely on the ground that it gave more than one representative for each thirty thousand to several of the States. The rule applied to that bill must have been this: that the representation of each State should bear to the whole number of representatives the same proportion which the representative population of each State bore to the population of the United States. By that bill, New Hampshire had five members, and was entitled to but four: Massachusetts had sixteen, but was entitled to only fifteen, and had a fraction of seventy-seven hundredths: Delaware was entitled to but one by the rule, with a fraction of eight-tenths, but had two members by the bill, &c. Gentlemen say the bill was rejected because fractions were represented by the bill. General Washington said there was no common divisor, or ratio, applied to the bill. He found no proportion, no equality in the bill. There was, in fact, no possible common divisor, which would give the results of that bill; and this was a fair ground of objection. But, by the bill which General Washington did sign, fractions were, in fact, represented. The whole number of representatives, without fractions, given by the bill, was but ninety-five, and the House of Representatives was composed of one hundred and five. It was not true that any President ever declared that representation by fractions was unconstitutional. The next bill, which was approved by President Jefferson, was drawn upon the very same principle with that now submitted by the resolution of the Senator from Massachusetts. The same ratio adopted in 1792 was continued in 1802. He showed that, by this bill of 1802, eight or ten States got each one member more than the rule entitled them to. Georgia had four members by the bill, and was entitled by the rule to only three, with a large fraction; and yet the gentleman from Georgia now says that the representation of fractions is unconstitutional. The third apportionment bill, which was approved by Mr. Madison, also allowed representations for fractions. The ratio assumed by the House was thirty-seven thousand. It was rejected in the Senate, on the ground that it was unequal in its operation, giving an undue advantage to the larger States. The Senate did not consider themselves bound by the decision of the House. They undertook to do justice. They put the ratio at 35,000, and increased the number from 170 to 186. Mr. C. then showed that several States, by that bill, had got one more member than the rule of apportionment entitled them to. Georgia again was entitled to but five members, with a fraction of seventy-three hundredths, but she got six members by the bill. The Senate objected to the bill from the House on the very grounds which are now urged against the bill before us, and the bill, as amended by the Senate, was finally passed. Mr. C. then went on to show that the apportionment bill of 1822, signed by Mr. Monroe, gave representatives for fractions. Georgia again had one more representative by the bill than the rule of apportionment entitled her to; and several other States a similar proportion. Under the bill now before us, sent to us from the House, the apportionment was, he contended, grossly unequal and unjust. It allowed representatives, in several cases, for small fractions, and refused them to very large fractions. This resulted from the assumption of an arbitrary divisor,

which gave a result favorable to the large States, and oppressive to the small States. He went on to give many statements in support of this position. The objection to the bill, resulting from its operation in regard to New York, was to him insuperable; and he could not conceive how honorable gentlemen could, by any mathematical or metaphysical subtlety, reconcile it to their sense of justice and propriety. New York, by the rule of proportion, was entitled to thirty-eight members. The bill gives her forty. She had those two representatives without constituents at home. Who were the people whom those two members represented? Where did they reside? The member from Delaware is chosen by 76,000 freemen; and he, their representative, sits by the side of two members who represent nobody. The Senator from New York calls upon the State of Virginia to support the bill. I call, said Mr. C., upon South Carolina, upon Illinois, upon all the small States, to help me in opposition to those large States; for they are all small in comparison with those two States—New York and Virginia. But he remembered the time when Virginia, too, stood by the small States, in the contest for equal representation, against the assumption of the large States; he referred to the course of Messrs. Giles and Brent in 1811, in relation to the apportionment bill in that year passed. The hard bearing of the bill upon the new States he next considered. Missouri was left with a fraction of six-tenths, while Tennessee had one member for a smaller fraction. This injustice arose from the arbitrary assumption of the number of the House, and the assumption, at the same time, of an arbitrary divisor. Mr. C. went into several statements to show that this mode of apportionment must necessarily operate to accumulate the fractions upon the small States. This mode of apportionment was adopted for the benefit of the large States; and as long as the Senate suffers them to continue it, they will have an advantage over the small States in the popular representation. The five large States had a representation of 121 members, but were entitled only to a representation of 118 members. The nineteen smaller States, with a population of 232,000 more than that of the larger States, had only 119 representatives, but were entitled to 122 members. After some other remarks, Mr. C. concluded by invoking the aid of the small States in the support of the rights of the small States. He hoped they would send the bill back to the House, as the bill of 1812 was sent back; and, if the House objected to it, he hoped the Senate would insist upon their amendment, as the Senate did in 1812.

Mr. FORSYTH replied briefly to the Senator from Delaware, insisting that he had, to make out his proposition, assumed what he ought to have proved—that his rule of apportionment was the rule which the constitution required. The State of Georgia, in his view of the rule, had always had a large fraction unrepresented: and the rule by which the gentleman would represent that, was altogether arbitrary. If the application of 30,000 as a common ratio, in 1792, was constitutional, then the similar application of a higher ratio at this time was constitutional. The State which he represented had no particular interest in this matter. Her number of representatives would be the same under the amendment as under the bill. He had listened to the arguments in favor of the amendment, with a disposition to be convinced; but he had come to the conclusion that the representation of fractions was unconstitutional.

Mr. HAYNE had, he said, listened attentively to the argument on both sides, but he now found a difficulty. He had, at one time, come to the conclusion to vote against the amendment. But he had been struck by the argument, that, under the apportionment proposed in the bill from the House, fractions were represented. Now if fractions were to be represented at all, he thought the most equitable mode of representing them was that presented in the bill. He wished the Senate to fix its attention upon this fact: New York has more than one-sixth of the whole representatives, but she has less than one-sixth part of the whole population. If so, she has a representative for her fraction. He wished to see this view met.

FRIDAY, March 9.

Apportionment Bill.

This bill being again taken up,

Mr. SILSBEE said that, the first objection which he should make to this bill, was, that it reduced the representation of some of the parent States to four less than it then was, by depriving each of the States of New Hampshire, Massachusetts, Maryland, and Virginia, of a portion of their present representation.

Another, and stronger objection to the bill was, Mr. S. said, that it caused a most unequal distribution of the unrepresented fractions, as he would endeavor to show by some statements which, he believed, had not been presented by any one who had preceded him in this debate, and as supplementary to some of those which had been presented by others.

Mr. S. said that the whole population to be represented was 11,928,731, which, at a ratio of 47,700, as proposed by the bill, would give 250 representatives and a fraction of 3,731. That the number of representatives proposed by the bill was 240, with an aggregate fraction of 480,731: that this aggregate fraction was equal to four per cent. of the whole population to be represented: that the aggregate fraction of the six New England States, upon their population, was about seven and one-third per cent., while the fractions of all the other States than those of New England was only three and one-third per cent.; and the fractions of eleven of the States, having 175 of the 240 representatives,

and more than two-thirds of the whole population, was only about one and three-fourths per cent.: that these eleven States, with a population of 8,497,935, and 175 representatives, have fractions of only 150,430, while the six New England States, with a population of only 1,954,684, and 38 representatives, (less than one-fourth the population, and but little over one-fifth the representation of those eleven States,) have fractions to the amount of 142,084; and three adjoining New England States, viz: New Hampshire, Massachusetts, and Vermont, with a population of 1,160,390, and 22 representatives, have fractions to the amount of 110,990, very nearly one-tenth of their whole population, besides losing two of their present representation.

Sir, said Mr. S., I know that an inequality of these fractions cannot be entirely avoided; but I doubt if another ratio can be devised, which will impose upon any six contiguous States of the Union, or upon any six States that are not contiguous, and that have a population of about two millions, such an inequality as is imposed by this bill, upon the six New England States.

Mr. S. proceeded to state that the average number of constituents represented by each of the 175 delegates from those eleven States would be 48,559; the average number by each of the 202 delegates from eighteen States would be 49,877; while the average number represented by each of the 38 delegates from the six New England States would be 51,439. That, under the provisions of this bill, the seven States of Virginia, Maryland, Delaware, New Jersey, Vermont, Massachusetts, and New Hampshire, will not only lose four representatives, but will have fractions appertaining to their remaining 58 representatives, to the amount of 218,490, equal to an excess of 3,767 to each representative — while seven other States, viz: New York, Pennsylvania, Georgia, Kentucky, Tennessee, Indiana, and Rhode Island, with 112 representatives, have fractions of only 41,425, or an excess of only 369 to each representative, being less than one-tenth of the excess to be represented by each of the 58 delegates from the other seven States: that Vermont, with only 5 representatives, would have a larger fraction than the seven States last named, with 112 representatives: that Pennsylvania, with 28 representatives, would have a fraction of 12,472; Kentucky, Tennessee, and Rhode Island, with 28 representatives, would have fractions to the amount of 8,739; but Vermont, New Hampshire, Massachusetts, and New Jersey, with the same number of representatives, (28,) would have fractions to the amount of 144,712: that the State of New York, with a population of 1,918,623, would have 40 representatives; while the New England States, with a population of 1,954,684, would have but 38 representatives, with a population 33,061 less, New York would have a representation of two members more than the six New England States. The State of New York would have one-sixth part of the whole representation of the Union, with 69,544 less than one-sixth of its population. The 18 members from Vermont, New Hampshire, New Jersey, and Missouri, Mr. S. said, would have an excess of 141,724, or, 7,873 to each member; while the 90 members from New York, Pennsylvania, Georgia, and Kentucky, would have an excess of only 25,338, or 281 to each member; the average number of constituents to the first 18 members being 55,573, and to the other 90 members only 47,981.

It will be seen, said Mr. S., that a division of the fractions of the seven States of New Hampshire, Vermont, New Jersey, Delaware, Missouri, Mississippi, and Louisiana, amongst their 24 members, will give to each of those members a fraction very nearly as large as that of the whole New York delegation at 40 members; the 24 members from those seven States have fractions to the amount of 213,218, proportionable to which the fraction to the 40 members from New York should be 355,363, whereas it was only 10,623. Thus, while the average number of constituents represented by each of the 40 members from New York will be 47,963, the average number represented by each of the 24 members from the other seven States will be 56,584; and the number represented by the member from Delaware will be 75,432.

The whole representative population of the Union, said Mr. S., is 11,928,731; one-half of which is 5,964,365.

The five States of New York, Pennsylvania, Virginia, Ohio, and Kentucky, with a population of 5,947,844, being 16,521 less than one-half of the whole population, are entitled, by the provisions of the bill, to 121 of the 240 members of which the House of Representatives is to be composed; while the other nineteen States, with 16,521 over a moiety of the whole population, are entitled to but 119 of the 240 members—giving to a minority of the population a majority of the representation, and to a majority of the population only a minority of that representation.

The six States of New York, Pennsylvania, Ohio, Tennessee, Kentucky, and North Carolina, with a population of 6,089,351, being 124,986 over one-half of the whole population, are entitled by the bill to 126 members, leaving a population, in the other States, of but 124,986 less than one-half the whole population, and entitled to 118, with only 114 members.

Can this, said Mr. S., be called a representation "apportioned amongst the several States according to their respective numbers?" He thought it could not, and hoped the bill would be so amended as to approximate somewhat nearer to such a representation than it then did, before it received the sanction of that body. Touching the constitutionality of the bill, or of any amendment which had been, or which might be, offered to it, Mr. S. said he had but a single remark to make, which was this—that

he had previously believed, and had become more and more confirmed in the belief, that by regarding fractions we should approach much nearer to such a representation as is prescribed by the constitution, than by disregarding them.

Mr. WHITE, of Tennessee, said the proposition now before the Senate was, whether that part of the substitute of the Senator from Massachusetts, which proposes the direct representation of fractions, shall be stricken out. Unless something more should suggest itself to his mind on the subject, he should determine that the representation of fractions, as such, was unconstitutional. The natural course by which the representatives were to be apportioned, was to assure a convenient number for the House, and then to adopt a common divisor, by which the number of representatives from each State should be ascertained. The divisor would be ascertained, after experiment, and chosen in reference to its equal operation on the several States. The object to be attained is to be made a just apportionment. If a just apportionment be attained, it is of no consequence what is the process taken; but whatever rule you adopt, must be one which applies to the respective numbers of each State. To the rule proposed by the Senator from Massachusetts, he objected that it was not an equal rule, applicable to each State, and operating in like manner upon each State. The rule gives an additional member to each of the twelve major fractions, and withholds it from the twelve minor fractions. What one State gains the gentleman says truly another State loses, and, therefore, the States having the major fractions have the full benefit of the aggregate minor fractions. It was the same old plan, presented in a new shape, which, forty years ago, was repudiated as unconstitutional. Each State must be received as a distinct body, to be distinctly and separately represented. The doctrine that a part of the political power or representative number of one State could be transferred to another, was the doctrine of consolidation. This is the fifth time that the subject has been before the Senate; and how is it that this plan of representing fractions, of operating upon the States as a consolidated body, was never before proposed? At the last apportionment, the State of South Carolina would have been entitled to one more representative, by lowering the ratio adopted only one or two hundred; but her Senators did not suggest the idea that this fraction ought to be represented. The apportionment, according to the whole spirit of the constitution and form of the confederation, must, according to the respective numbers of the States, be considered as distinct, separate communities. Perfect equality was not expected; it was known to be unattainable, in the apportionment of men—for they are not, like money, divisible. It is true that the large States have an advantage in the apportionment, because their fraction, whatever it is, must bear a less proportion to their whole number of representatives than the fractions of the smaller States to their number of representatives. But this was an advantage of which you cannot deprive the larger States constitutionally.

Mr. SPRAGUE spoke in reply to the Senator from Tennessee, and in opposition to the motion to amend the substitute. He contended that fractions had, by every bill, been substantially represented, though not so by provisions expressed on the face of the bill; that such representation was in accordance with the spirit of the constitution, which required a just and equal apportionment of representatives; and that the provisions of the substitute attained a greater degree of equality than those of the original bill.

MONDAY, March 12.

Apportionment Bill.

The Senate resumed the consideration of this bill, with the amendment thereto offered by Mr. WEBSTER, and the amendment offered by Mr. FORSYTH.

Mr. DICKERSON said: Coming, as he did, from a State which has severely felt the unequal and unjust operation of the laws heretofore adopted, and again to be adopted, if the present bill should pass, for apportioning the representatives of the United States among the several States, it was his duty to his constituents to join Senators from States similarly situated, in an effort to arrest, as far as practicable, this system of oppression.

Great injustice has been done to the small States, said Mr. D., in withholding from them their proper share of power, weight, and influence, in the councils of the nation; more especially as it respects their numerical force in the House of Representatives, while they have been compelled to bear their undiminished share of public burdens. The condition of the State of New Jersey, contrasted with that of her potent neighbors, New York and Pennsylvania, will put this subject in a strong point of view. In the apportionment of 1810, when the ratio was fixed at 35,000, New Jersey had an unrepresented fraction of 31,222, while New York had a fraction of 8,043, and Pennsylvania a fraction of 4,773, added together amounting to 12,816. The fraction of New Jersey being nearly three times as great as that of New York and Pennsylvania together; while New York had a representation of 27, Pennsylvania of 23, and New Jersey 6. In the apportionment of 1820, when the ratio was fixed at 40,000, New Jersey had a fraction of 34,551, while New York had a fraction of 8,775, and Pennsylvania of 9,449; and in the apportionment of 1830, according to the present bill, with a ratio of 47,700, New Jersey had a fraction of 33,632, while New York has a fraction of 9,953, and Pennsylvania of 12,052. In this way several States have suffered nearly as much as New Jersey, and the State of Delaware much more.

And shall the Senators of these States not complain? Shall they not inquire whether the constitution, which was adopted for the common benefit of all, can, when fairly construed, authorize such gross injustice? And being convinced that a fair construction of the constitution would secure to them a more equal representation, shall they not avail themselves of their strength, in this body, to assert and obtain their just rights?

By the Constitution of the United States, representation and direct taxes shall be apportioned among the several States according to their respective numbers. It is impossible to comply strictly with the terms of the constitution; but it is the duty of Congress to approach, as nearly as possible, to a just apportionment of representatives as well as of taxes.

The plain meaning of the constitution is, that, of whatever number the popular branch of Congress shall consist, it shall be so divided, adjusted, and apportioned among the several States, that the representative strength of each State in that body shall be, as its actual comparative strength, measured in federal numbers in the Union; that the whole representative population of the United States shall be to the whole number of representatives, as the representative population of any State shall be to its share of such representatives. And this division, adjustment, or apportionment, cannot be made in accordance with the constitution, until we have arrived at the nearest practical approximation to this principle. And has this been attained in the bill before us? It has not: on the contrary, this bill is a reiteration and continuation of old abuses, which have become more oppressive as our population has increased; and when the Senators from the States, feeling the oppressive operation of this bill, endeavor to amend it, they are met with the most determined opposition from the Senators of States having more than their share of this joint stock of power; and the great States seem to make it a common cause, to deprive the small States of their proper rights and influence in the House of Representatives.

Mr. FRELINGHUYSEN said he had listened with the most anxious interest and attention to the discussion on the important and exciting question involved in the amendment proposed by the honorable Senator from Massachusetts. Every personal and political consideration united to persuade him in favor of it. But, sir, said Mr. F., after the best reflection in my power has been devoted to this subject, I feel constrained to differ from those with whom I generally agree, and to vote for the proposition that will reject the amendment.

I cannot but regard this amendment as presenting the same difficulties which arrested the ratio bill of 1792. It is an endeavor to accomplish a more equitable representation, by bringing the fractions of the several States into account; and it will readily be perceived that the process adopted by the honorable Senator from Delaware to illustrate his objections to the bill, is substantially of the nature of the calculations which led the way to the rejected bill of 1792. My friend takes for his first number the aggregate population of the United States, amounting to 11,928,731; and then states that as this number is to the proposed number of the House of Representatives, (240,) so is the population of any State to its share of the representation. Now, sir, the first great mistake in this rule is committed in the very first number; that is, the population of the whole Union, combining, of course, all the fractions of the several parts, is constituted the controlling number to bring about the distribution of representatives among the several States according to their respective numbers. It cannot fail to strike the mind that the constitutional apportionment is based upon the federative principle. It regards not the whole twenty-four States as consolidated, but separated, distinct, individual. It is true, sir, the bill of '92 invaded another clause of the constitution, besides the one which is opposed to this amendment. It gave to some of the States more than one member for every 30,000 of the inhabitants of such States.

But I hope to show that this other clause flowed out of the one which is now considered, and was its just corollary. I insist, then, in the first place, Mr. President, that a construction was given to the constitution by President Washington, in 1792, that settles and concludes the present question; and it has received the constant acquiescence of this whole Union, at four eventful periods since. He distinctly resisted a process that subjected the whole federal number of the United States to a common divisor; and as distinctly required the application of such divisor to the population of each State.

So President Washington treated the subject when it came before him, under the imposing authority of both Houses of Congress. The National Legislature of that day had subjected the whole population of the United States to a division of 30,000—the proposed number for each representative; and the process gave 120 members, more members, of course, than the same divisor, when applied to the separate States, would produce; and they disposed of the surplus members, by distributing them among the States having the highest fractions. The bill was warmly debated in Congress, and eventually sent to the President by a very small majority. It presented to his mind a very interesting case, and a very solemn duty. He was called upon to give a practical exposition to the Constitution of the United States, and on a branch of it well calculated to excite very warmly the public feeling. He examined the act with the sagacious scrutiny of a statesman, about to settle a great question in the apportionment of political power. He was not content, on finding one fatal objection to this bill, to rest his rejection there, and return it to Congress; he made his exceptions as broad as the case presented to him. He detected two

substantial objections; and that which struck him as prominent, and which he placed in the foreground of his communication, was, as I apprehend, the very difficulty into which the present amendment will bring us. Without further remark, I will now read the reasons urged by President Washington for returning the ratio bill without his consent:

"APRIL 5, 1792.

"*Gentlemen of the House of Representatives:*

"I have maturely considered the act passed by the two Houses, entitled 'An act for the apportionment of representatives among the several States according to the first enumeration,' and I return it to your House, wherein it originated, with the following objections: First. The constitution has prescribed that representatives shall be apportioned among the several States according to their respective numbers; and there is no one proportion or divisor which, applied to the respective numbers of the States, will yield the number and allotment of representatives proposed by the bill. Second. The constitution has also provided that the number of representatives shall not exceed one for every 30,000, which restriction is, by the context, and by fair and obvious construction, to be applied to the separate and respective numbers of the States, and this bill has allotted to eight of the States more than one for every 30,000.

"GEORGE WASHINGTON."

The Senate perceive, then, that the objections are distinct in their application, but that both insisted on the same principle; that the States in their separate populations were to be regarded; and it is further worthy of notice that the second objection, instead of being the principal, or, as has been insisted, the only substantial difficulty with the President, was, in truth, only a just inference which he drew, as he explicitly states, from the first objection.

In presenting the first objection, the President seemed to consider it quite sufficient barely to state the fact of there existing no one proportion or divisor that would produce the result of the bill before him. He enters into no argument, but thought he had said enough to produce conviction with any mind. The debates that were had on this rejected bill in the House of Representatives, confirm the views which I had the honor to urge. The representation of fractions was then resisted on constitutional grounds.

Mr. Madison opposed it in terms for this cause, and urged the following cogent consideration: "You are calling upon us to invade the constitution, by adopting a process that will give representatives for those several and distinct fractions of the different States."

When this bill was returned, the Congress passed a new bill with a ratio of 33,000, and applied that to the population of each State: New Jersey, having at that time 179,570 federal numbers, received by the bill five members, with a fraction remaining of 14,570; and the whole apportionment of representatives on the population of that era, (being 3,615,920,) left an amount of fractions exceeding 150,000. Yet, sir, it was submitted to—so in 1800—again in 1810—and last, in 1820, with increased fractions at each period, but with the same acquiescence in the construction of President Washington, in 1792. Mr. President, if I could think this a debatable point originally, such an adjustment of it, followed by such confirmation, would prevail to quiet all scruples. I should feel bound to bow with respect to the weight of a precedent of such commanding authority. While I consider the present bill as far from adopting that just ratio which would relieve as much as practicable the heavy fractions upon the small States, yet I must, though with reluctance, vote against the amendment, because it is opposed, in my judgment, to the provisions of the constitution, as expounded in 1792, and since approved of.

The question being then taken upon the motion of Mr. FORSYTH to strike out the clause of the amendment which provides for the representation of fractions, it was decided in the affirmative, as follows:

YEAS.—Messrs. Bibb, Brown, Dallas, Dudley, Ellis, Forsyth, Frelinghuysen, Grundy, Hendricks, Hill, Kane, King, Marcy, Mangum, Poindexter, Robinson, Ruggles, Tazewell, Tipton, Tomlinson, Troup, Tyler, White, Wilkins—24.

NAYS.—Messrs. Bell, Benton, Buckner, Chambers, Clayton, Dickerson, Ewing, Foot, Hayne, Holmes, Johnston, Knight, Miller, Moore, Naudain, Prentiss, Robbins, Seymour, Silsbee, Smith, Sprague, Waggaman, Webster—23.

Mr. WEBSTER remarked, that the other portion of the amendment offered by him was no longer of any consequence, and he would withdraw it, or vote against its adoption. The amendment was rejected.

Mr. HILL moved to strike out 47,700 from the bill, and insert 44,000.

At the request of Mr. TAZEWELL, the motion was divided; and the question being taken on the motion to strike out, it was decided in the negative.

Mr. WEBSTER said he should now vote against the bill as a practical violation of the constitution.

The question being on ordering the bill to a third reading, it was decided in the affirmative by the following vote:

YEAS.—Messrs. Benton, Bibb, Brown, Dallas, Dudley, Ellis, Ewing, Forsyth, Grundy, Hayne, Hendricks, Kane, King, Knight, Mangum, Marcy, Moore, Poindexter, Robinson, Ruggles, Tazewell, Tipton, Tomlinson, Troup, Tyler, White, Wilkins—27.

NAYS.—Messrs. Bell, Buckner, Chambers, Clayton, Dickerson, Foot, Frelinghuysen, Hill, Holmes, Johnston, Miller, Naudain, Prentiss, Robbins, Seymour, Silsbee, Smith, Sprague, Waggaman, Webster—20.

Mr. BENTON, on giving his vote in the affirmative, remarked that he was much dissatisfied with the provisions of the bill, but voted for it

because it was necessary to pass it, even in this shape.

TUESDAY, March 13.

Bank of the United States.

Mr. DALLAS from the Select Committee appointed on the subject, reported a bill to renew the charter of the Bank of the United States for the term of fifteen years, to take effect subsequent to the expiration of the present charter in the year 1836; which was read, and ordered to a second reading.

THURSDAY, March 15.

The Tariff—Reduction of Duties.

Mr. MOORE, of Alabama, addressed the Senate as follows:

Nothing, said Mr. M., but the magnitude of the question, the deep and pervading interest involved in the manner of its final adjustment, could prompt me to claim the indulgence of the Senate for a moment, after the able and eloquent display of talent and argument with which they have been entertained, and so interestingly entertained, by gentlemen who have preceded me.

But, sir, the acknowledged importance of this question seems to demand that I should not content myself to give a silent vote, and that it is due to the occasion that I should declare the views and feelings of those whom I have the honor, in part, to represent.

Sir, the citizens of Alabama have looked forward, with the most anxious solicitude, to this session of Congress, for a redress of burdens imposed by an unjust and unauthorized system of taxation.

They have approached this body, time after time, with memorial after memorial, and remonstrance after remonstrance, representing the impolitic, unwise, and unjust course pursued in relation to the tariff; they have looked forward to the period, which has now arrived, when the national debt is about to be extinct, as the most favorable era in our history, as one which could not fail to afford relief from a system so galling, ruinous, and destructive; and shall these fond anticipations be disappointed? Will not the conciliatory terms proposed for a compromise by the honorable Senator from South Carolina, (Mr. HAYNE,) in that able, convincing, and, I may add, unanswered and unanswerable argument, and which have been acceded to by every other gentleman who has spoken on the same side of this question, be received in that amicable and pacific spirit which prompted them?

Where, sir, said Mr. M., is that mutual forbearance and concession, that God-like spirit, which pervaded the councils of this nation in the formation of this Union, and in the establishment of the federal constitution? Where, sir, is that high and sacred flame of patriotism, which, when the opposing and conflicting interests of the different sections of this Union threatened, yea, sir, awfully threatened, its dismemberment, prompted the honorable Senator from Kentucky (Mr. CLAY) to throw himself in the breach to preserve its integrity? (I mean the Missouri question.) Then, the question which divided parties was the slaveholding States, and the non-slaveholding States. Now, it is north and south of the Potomac River; or, to my mind, a more appropriate distinction is, the portion who receive bounties, and the portion who pay them. For it cannot be disguised, that, for the last ten or fifteen years, the means and substance of the Southern people have, under the tariff exactions and the internal improvement system, been dragged from them, for the benefit of other sections, in a current as bold, as rapid, and unceasing as that of the majestic Mississippi; until we are reduced to the most wretched state, and the last possible point of suffering. Sir, the picture drawn by other gentlemen on the same side of this question presents a faithful portrait of the depressed condition of the planting and agricultural interest in Alabama, except, indeed, in the latter there is a deeper gloom, if possible, hanging over this interest. This unfortunate section of country presents precisely the counterpart to that beautiful description of the high state of prosperity, drawn by the honorable Senator from Kentucky, of the condition of other sections. While I was charmed by the eloquence of the honorable Senator, in his vivid description of the prosperity of these the much favored sections of this Union, I was appalled and astonished at the contrast between the condition of these, and the actual gloomy condition of the entire face of the country in my own much beloved State.

From what source, let me ask, does this high state of prosperity emanate? Not from natural advantages, connected with superior soil, climate, salubrious air, or water; for in these we believe the God of nature has been as bountiful to us as to any other class of citizens in any other quarter of the globe.

But this state of things is to be ascribed to artificial advantages. It is much better that the Eastern and Northern States, including the non-slaveholding States, should have the power, for we deny the right, to tax our slave labor at their own discretion, than to own our slaves themselves—and this is the advantage they possess by a union of interest on this question.

And what, sir, is this American system, in another point of view? It is one by which you say to the poor man in his cabin, that he shall pay an exorbitant tax for the salt put in his bread, the sugar and coffee with which he supplies a sick family, the coat which he wears himself, the flannels with which he clothes his wife and children, the hats which cover their heads, his axe, his plough, hoe, and other utensils with which he cultivates his crop. These,

sir, are "the rich blessings," so much lauded by the honorable Senator from Kentucky, (Mr. CLAY,) and the consequence is, that the Southern and agricultural portion of the country, the real yeomanry of the South, are made the "hewers of wood and drawers of water" for other sections.

I will not yet believe but the honorable Senator and his friends will see the propriety of relaxing in this measure, and making some concession to the wounded feelings and just claims of the South. Let me tell the honorable gentlemen, that they will urge in vain that this system is of benefit to the Southern people, and that we are incapable of appreciating its value. I hope gentlemen will not longer add to injury and oppression the insult of supposing that we do not understand our own interest.

We were informed by the honorable Senator, in 1824, as we have been now, that to give protection to home industry, would, in a few years, create competition, and thus reduce the price of articles protected—but one ounce of experience on this subject is worth pounds of theory. And experience proves that these calculations and anticipations have been entirely unfounded and fallacious.

Mr. President, in the name of our sacred Union, I protest against this miscalled American system, which, contrary to justice, to the constitution of our common country, to all the sacred rights of freemen, imposes a tax upon my constituents, for the purpose of enriching another section of the Union. It is an outrage, to which no patriotism can prompt any people, claiming to be free, to submit, and which, if persisted in, will prove a hazardous experiment, so long as there remains one spark of that spirit in the Southern States, which resisted the unauthorized taxation of the mother country.

Mr. President, in concluding my remarks, you will be pleased to permit me to read some extracts from a joint remonstrance of the General Assembly of the State of Alabama, adopted with great unanimity, sir, in both branches, in 1828, by way of showing how far the feelings of the citizens of the State of Alabama are in accordance with the views which I have endeavored to declare, as one of their representatives:

"The General Assembly of Alabama, alive to the rights of the people they serve, and the interest of the country in which they live, (however painful the duty,) feel themselves called on by the crisis to protest most solemnly against the principle asserted by the General Government to control the labor of the nation, by protecting certain branches of domestic industry at the expense of others. We do not complain of the power to raise revenue or regulate commerce. These powers are expressly granted to preserve the existence and promote the harmony and prosperity of the Government. Nor do we complain of the incidental protection that may result from a well-adjusted 'tariff,' imposed on the importation of foreign goods, with a view to revenue alone, nor yet of the occasional inequalities that must attend the operation of any general system.

"It is not of these powers that we complain, but it is the assertion of another, and a very different one. It is the assertion of the power to impose a duty on any article of foreign commerce, not because we want revenue, or the regulations of commerce, as such require improvement; but because we want to exclude the foreign in favor of the domestic fabric. This power is not granted in the constitution, and must be sustained, if at all, by the pliable doctrine of implication; and, as it is not necessary to the power to raise revenue or regulate commerce, it cannot be sustained as an incidental or implied power; on the contrary, it is a substantive, distinct power, resting on assumption, and fraught with frightful danger. It has no limit but the caprice of those who assert its existence, and is necessarily subject to all the varying views of supposed convenience, and the fugitive conceits of expediency. The unlimited nature of this power, and the dangerous purposes to which it may be applied, render it odious and unfit to mingle in human affairs. Its natural offspring is monopoly; and its natural tendency is to divide the community into nabobs and paupers, to accumulate overgrown wealth in the hands of the few, and to extend the poverty, the vices, and the miseries of the many. This alarming principle leads to the union of the worst of human passions. Cupidity and ambition, under its deleterious influence, administer to each other, at the expense of the community. Cupidity will barter worlds for money; and unchastened ambition will filch from the poor man's toil a portion of its just reward, to appease the cupidity of the cold, calculating monopolist.

"Let it not be again said, that, because the Southwest and South send no agents to beset the members of Congress, and have forborne to petition or remonstrate in every village, or to call a counter convention, they are so recreant to duty, as to acquiesce in the proposed oppression. On the contrary, let it be distinctly understood that Alabama, in common with the Southern and Southwestern States, regards the power assumed by the General Government, to control her internal concerns, by protecting duties beyond the fair demands of the revenue, as a palpable usurpation of power not given by the constitution."

Mr. BENTON, of Missouri, next rose. The present session of Congress, said Mr. B., was looked to with great anxiety by the people of this Union, as the one which was to effect a large reduction in the public revenue, and an equitable modification in the existing tariff. The people expected these things from us; but up to this moment they seem to be in a fair way to be disappointed; for no bill has even yet been brought in to accomplish their just expectations; and we are now well advanced in the fourth month of the session.

The President of the United States has certainly performed his part. His annual Message, received by us in the first week of December, contained a strong recommendation to this Congress to reduce the revenue to the wants of the Government, and to adjust the duties on foreign imports so as to favor our national interest at home, and counteract adverse policy

from abroad; and he showed us, in the same Message, that the state of the finances, and the state of the country, required these things to be done, and to be done now! These recommendations will shield the President from censure for neglect in failing to bring the subject of the tariff before us; and it ought to shield him from the imputation of double dealing on that subject. It ought to shield him from that imputation! For his sentiments are plainly expressed, and are, therefore, intelligible. They are publicly delivered, and are, thereby, universally known. They are in accordance with all his previous acts and words upon the tariff, and are, therefore, entitled to credit for candor and sincerity. I might go further, and say that his sentiments are in accordance with the public wishes and the public interests; but I will not presume to speak for a nation! I will speak for myself alone, and will say that the President has well expressed my sentiments in this recommendation, such as I have often declared them to the Senate here, and to my constituents at home; and, this being the case, it is my duty, still more than my inclination, to defend these sentiments, at this time, and in this place, arraigned as they have been on this floor, and stigmatized as ruinous to the country.

I am in favor of reducing the revenue to the wants of the Government, not only for the reasons which have been mentioned by the President and by several Senators, but for another reason in addition, and which presents itself to my mind as a compact between the States and the Federal Government. We all know that the present form of Government grew out of the weakness of the Government of the confederation, and that the taxing power was the hinge upon which the change turned. The Congress of the confederation had no power to tax the people of the States. It had no power over the purse. It could only ask for money; and this being found a slow way to obtain it, the power of taxing was applied for. The States refused this power, because the Congress might abuse it, and levy too much; they refused to vest the Congress of the confederation with power to levy duties upon imports, and to regulate the foreign commerce of the States, because they saw that, in granting these powers, they yielded the unlimited and responsible power of taxation, and left themselves without defence against the exactions of the General Government. They resisted—they refused. To all the solicitations of Congress they turned a deaf ear, and were inexorable. For ten years they held out; but the convention of 1787 inserted these two powers in the new constitution, and the States, with infinite difficulty, were induced to acquiesce; but that acquiescence was the effect, not of arguments, but of pledges!—pledges of that high and solemn nature which no man of that day was permitted to believe could ever be violated.

I maintain, sir, that the federal revenue may be reduced to the wants of the Government, as recommended in the President's Message, not only without destroying domestic manufactures, but without hurting or injuring them in the slightest degree. This is my assertion! The proof and the demonstration shall follow; for I know how insignificant it is to make bold assertions without adequate proofs at hand to support them. And here, sir, permit me to presume that I am a friend to domestic industry, and voted for the tariff of 1824 with the approbation of my judgment, and for that of 1828 with repugnance and misgivings. I am a friend to domestic industry, and mean to protect it, according to what I believe to be the true policy of the country, sanctioned by the constitution and by the practice of the framers of the constitution. I will give protection, as an incident to revenue; and this is the kind of protection which is coeval with the foundation of our Government, and under which manufactures attained a high degree of importance under the first twenty years of its existence; and that without giving the least dissatisfaction to any part of the Union. As far back as the year 1810, our manufactures had attained the annual value of one hundred and twenty millions of dollars, (as we learn from Mr. Gallatin's report—a report which ought to have shielded him from the reproach which has been cast upon him here!) and that under a low rate of revenue duties, ranging from five to fifteen per centum. The same rate of protection would now produce two hundred and forty millions of manufactures annually—for our population is doubled since 1810. But it is not desired or intended, by any Senators with whom I am acquainted, to reduce manufactures to the degree of protection possessed at that time. The lowest rate proposed by the anti-tariff gentlemen is double and treble what it then was; and, for myself, I shall not go so low as they do.

I now proceed to the proof of my assertion that the revenue may be reduced to the wants of the Government, without affecting or impairing the successful progress of any manufacture. And here I would ask, how many, and which are the articles that require the present high rate of protection? Certainly not the cotton manufacture; for the Senator from Kentucky, (Mr. CLAY,) who appears on this floor as the leading champion of domestic manufactures, and whose admissions of fact must be conclusive against his arguments of theory; this Senator tells you, and dwells upon the disclosure with triumphant exultation, that American cottons are now exported to Asia, and sold at a profit in the cotton markets of Canton and Calcutta! Surely, sir, our tariff laws of 1824 and 1828 are not in force in Bengal and China. And I appeal to all mankind for the truth of the inference, that, if our cottons can go to these countries, and be sold at a profit without any protection at all, they can stay at home, and be sold to our own citizens, without loss, under a less protection than 50 and 250 per centum! One fact, Mr. President, is said to be

worth a thousand theories; I will add that it is worth a hundred thousand speeches; and this fact, that American cottons now traverse the one-half of the circumference of this globe—cross the equinoctial line—descend to the antipodes—seek foreign cottons on the double theatre of British and Asiatic competition, and come off victorious from the contest—is a full and overwhelming answer to all the speeches that have been made, or ever can be made, in favor of high protecting duties on these cottons at home. The only effect of such duties is to cut off consumption—to create monopoly at home—to enable our manufacturers to sell their goods higher to their own Christian fellow-citizens, than to the pagan worshippers of Fo and of Brahma! to enable the inhabitants of the Ganges and the Burrampooter to wear American cottons upon cheaper terms than the inhabitants of the Ohio and Mississippi. And every Western citizen knows the fact, that when these shipments of American cottons were making to the extremities of Asia, the price of these same cottons was actually raised 20 and 25 per cent. in all the towns of the West: with this further difference to our prejudice, that we can only pay for them in money, while the inhabitants of Asia make payment in the products of their own country.

That is what the gentleman's admission proved; but I do not come here to argue upon admissions, whether candid, or unguarded, of the adversary speakers. I bring my own facts and proofs; and, really, sir, I have a mind to complain that the gentleman's admission about cottons has crippled the force of my argument—that it has weakened its effect, by letting out half at a time, and destroyed its novelty, by an anticipated revelation. The truth is, I have this fact (that we exported domestic cottons) treasured up in my magazine of argument, and intended to produce it at the proper time, to show that we exported this article, not to Canton and Calcutta alone, but to all quarters of the globe; not a few cargoes only, by way of experiment, but in great quantities, as a regular trade to the amount of a million and a quarter of dollars annually; and that, of this amount, no less than forty thousand dollars' worth in the year 1830 had done what the combined fleets and armies of the world could not do; it had scaled the rock of Gibraltar, penetrated to the heart of the British garrison, taken possession of his Britannic Majesty's soldiers, bound their arms, legs, and bodies, and strutted in triumph over the ramparts and batteries of that inattackable fortress; and now, sir, I will use no more of the gentleman's admissions. I will draw upon my own resources; and will show nearly the whole list of our domestic manufactures to be in the same flourishing condition with cottons actually going abroad to seek competition, without protection, in every foreign clime, and contending victoriously with foreign manufactures wherever they can encounter them. I read from the custom-house returns of 1830—the last that has been printed. Listen to it!

[Here Mr. B. exhibited a table showing the various articles of domestic manufactures exported to foreign countries, and the value of each; and among these articles *salt*, to the British dominions.]

This is the list of domestic manufactures exported to foreign countries. It comprehends the whole, or nearly the whole, of that long catalogue of items which the Senator from Kentucky (Mr. CLAY) read to us on the second day of his discourse; and shows the whole to be going abroad, without a shadow of protection, to seek competition, in foreign markets, with the foreign goods of all the world. The list of articles I have read, contains near fifty varieties of manufactures, (and I have omitted many minor articles,) amounting, in value, to near six millions of dollars! And now behold the diversity of human reasoning! The Senator from Kentucky exhibits a list of articles manufactured in the United States, and argues that the slightest diminution in the enormous protection they now enjoy, will overwhelm the whole in ruin, and cover the land with desolation. I exhibit the same list, and argue that these articles can bear, without injury, a very considerable diminution. He says, if there is the least diminution, foreigners will come here and undersell them; I say no, because these articles now go abroad, and undersell foreigners, in foreign markets, without a particle of protection. This is the difference in our reasoning, for our facts are the same; and which is right, I leave to the common sense of all mankind to say.

I do not propose to comment, item by item, on all the articles contained in this list. I have read it in detail, and leave the reflections which the reading suggests to the understandings of others. A few items only I will examine, for the purpose of exemplifying my own opinion of the tariff, and of the kind of modification it ought to receive. In some instances, the manufacture is so generally diffused, and the price reduced so low by domestic competition, that the duty is a dead letter, giving no preference to the artisan, adding no increase of price to the purchaser; and, in such cases, no practical man should trouble himself about the duty. In other instances, the domestic supply is far from being equal to the demand; large foreign supplies must be procured, and the duty on the foreign articles is paid by the consumer; in such instances, there ought to be a reasonable reduction. In other instances, again, the duty enables a few to engross the domestic market, and to exact extortionate prices, where, in fact, no duty is necessary at all to give them a fair profit; and, in such cases, the duty should be abolished. In other instances, the foreign article has no rival or substitute manufactured in the United States; and, in such cases, the

foreign article should be freed from duty. I do not now travel over the list to exemplify these positions; the time will come for that exemplification when we arrive at the details of the bill. I will take two items only to illustrate some part of my meaning, namely, iron and salt. The list shows a large exportation, upwards of $300,000 worth of domestic iron, and its manufactures. Turning to the detailed statement from which this summary list is compiled, and we find this entry under the head of nails—

"To Cuba, 1,030,376 lbs.—value $61,216."

Now, sir, let any person who can work a sum in the golden rule of three, calculate the price of these nails per pound. He will find it to be less than six cents; and whether these exported nails consisted of an assortment, which is most probable, or were all of the lowest price, which is impossible to believe, it will turn out that American nails are exported for less than they are sold at home: for it is incontestable that the people of the West pay more than six cents a pound for their nails.

The list also contains this item—

"Salt, - - - - - $22,378."

Turning to the detailed statement, and we find that this salt of domestic manufacture goes to Canada, actually goes into his Britannic Majesty's dominions, where British salt comes free of duty, and where it has to contend with that salt, upon its own territory, and without a particle of protection. Now, why not contend with it also at home, upon our territories, upon the same terms? It can certainly stand the competition better at home than abroad. Why, then, does it want protection at home? Mr. President, another opportunity will present itself for going at large into the whole question of the salt tax; but I cannot permit this opportunity—so forcibly presented by the actual view of American salt exported to the British dominions—to pass by, without unfolding the peculiar operation of the tariff laws upon this article of universal and prime necessity. I will make a brief exposition of this cruel operation; and, first, we will see the quantity and value of foreign salt imported into the United States, as shown in the custom-house returns of 1830:

Quantity, value, and price, per bushel, (of 56 lbs.,) of salt imported into the United States, for the year 1830.

	Bushels.	Value.	Price per bush.
From the Swedish West Indies,	6,278	$ 500	8
" Danish West Indies,	24,283	2,656	11
" Dutch West Indies,	95,483	7,806	7¾
" England, - -	3,083,847	469,711	15¼
" Scotland, - -	1,575	298	18¾
" Ireland, - -	56,798	11,556	20¼
" Gibraltar, - -	37,360	4,146	11¾
" British West Indies,	705,526	65,618	9¼
" British American Colonies, - -	3,926	1,583	40¼
" Other British Colonies, - - -	16,208	1,250	7½
" France, on the Mediterranean, - -	86,582	6,772	7¾
From Hayti, - - -	7,460	968	12¾
" Spain, on the Atlantic, - - -	436,690	29,665	6¾
" Spain, on the Mediterranean, - -	86,372	7,574	8¾
" Cuba, - - -	17,296	6,849	39½
" Other Spanish West Indies, - - -	607	50	8¼
" Portugal, - -	620,198	49,621	8
" Fayal and other Azores, - -	6,489	836	12¾
" Cape de Verd Islands,	6,632	510	7¾
" Sicily, - - -	15,875	569	4¼
" Italy and Malta, -	35,915	2,007	5¼
" Trieste and other Adriatic ports, -	9,368	810	8¼
" Turkey, Levant, and Egypt, - -	8,568	907	10½
" Mexico, - - -	157	86	54¾
" Colombia, - - -	1,009	200	10
" Brazil, - - -	1,647	173	10½
" West Indies generally, - - -	2,906	300	10½
	5,374,046	671,970	

In this list, sir, we behold the import price—the first cost—of all the variety of salt imported into the United States. See the pure, natural, crystallized, sun-made salt, which comes from Spain, Portugal, France, and the West Indies, costing seven, eight, or nine cents a bushel. See that which comes from the coasts and the islands of the Mediterranean, and the head of the Adriatic sea, and which is equally pure, strong, and good, costing no more than three, four, five, and six cents a bushel. Then look at the price of this salt in the seaport towns, generally ranging between forty and fifty cents a bushel; look at the price of the same salt in the interior of the country, when sold to the farmer, and observe this price increased to about one dollar, and the bushel reduced to fifty pounds; observe these things, and tell me the reason of this excessive, this monstrous, this astonishing disproportion between the import and the retail price. Look at the respective prices of the English fire-made salt, and the natural sun-made salt, which comes from twenty other countries, and tell me the reason why that which cost double, and is worth but half as much as the other, sells for about the same price in our market. Tell me why it is that all qualities are levelled, and all prices raised, to the same standard, and profits of four or five hundred per centum exacted on some descriptions of salt. Sir, I will tell you the reasons of all these enormities, and I will prove it to you besides. It is the tariff which does it! It is the tariff, which, giving birth to a race of regraters in the seaports, and monopolizers in the interior, throws all the foreign salt into the hands of one set, and all the domestic salt into the hands of the other; and enables the two classes to fix their own prices, and to exact what they please for every variety of the article, without regard to the difference in cost or quality.

The tariff does it, and this is the process: A vessel arrives from the dominions of a foreign

power with salt. Before a permit can be obtained to land it on the soil of the United States, the duty must be paid in ready money, or bond and security given to pay it in nine months. If paid in ready money, the interest for nine months is discounted; if credit is taken, the principal and securities in the bond are all required to be citizens of the United States. This is the law. Now for the practical operation of the law. The importer who has brought this salt to sell, and which he wishes to sell at four, five, six, seven, eight, or nine cents a bushel, did not bring along with him spare cash at the rate of ten cents a bushel, (which is the present duty,) to pay the American Government before he can sell his salt to American citizens. He, therefore, cannot pay the duty in ready money. Credit becomes his only resource; and, to get American securities to his bond, the salt must be sold or consigned to American citizens. This throws the whole foreign salt trade into the hands of a few men, who make it their business, and their profit, either to go security and take the salt to sell, or to buy it at once out of the hands of the importer, and assume the duties to the Government. And this is the practical operation of the law. Having all the salt in their own hands, the next thing is to fix the price, and that is done by adding the duty to the cost, and putting as many hundred per cent. as they please upon both, for their profit, and this brings the price to forty or fifty cents. This is the process of the regrater in the seaport; the monopolizer in the interior keeps pace with his brother; and, between the two, the farmer pays four prices for his bushel of salt, and then gets a weighed bushel of fifty pounds, measuring little more than half a bushel, instead of a measured bushel, weighing from seventy-six to eighty-four pounds. Such is the operation of the tariff upon the price of salt! Abolish the duty, and introduce a free trade, and what would be the consequence? Why, sir, the importer would never fall into the hands of the regraters. He would land his salt without a permit—without tax—without bond—and sell it in the river, or at the wharf, to any one that would buy it; or he would ascend into the interior with it, bartering his salt with the farmers, against their provisions, and that at first cost, without duty, or advance upon cost and duty. The manufacturer would have a fair price for the domestic article; for freight would operate as a protection, and be equal to a duty of near twenty cents, and give a better profit upon their capital than farmers and planters are receiving. This would be the state of our salt trade if the duty was abolished; and every interest of the farmer requires the abolition.

The West needs foreign trade. Why else did our ancestors struggle under the Government of the confederation to secure the free navigation of the Mississippi? Why else did the whole West rejoice at the acquisition of the mouths of the Mississippi in 1803? But it is said that the introduction of the high tariff policy has not been injurious to foreign trade. I think otherwise; but let us avoid an array of opposite opinions, and contradictory assertions, which decide nothing, and produce no results, and let us have recourse to the logic of facts which put an end to all mistakes. Let us examine this point upon evidence, and evidence of that character that no man may be permitted to dispute it. I speak of the evidence of the custom-house books, and will take two periods which will exhibit the fairest state of the question. I will take the year 1816, which was the year of the commencement of the high tariff policy; and the year 1830, which was two years after that system had attained its present maximum growth. In the first of these years the export of domestic productions was $64,781,896; in the second it was $59,462,029. Here is a decrease of five millions, when there ought to have been an increase of about thirty millions; for our population had increased one-third in the same time, and our country was at peace with all the world during the whole period; and her foreign commerce should have been as progressive as her population. The diminution of foreign trade is then, in reality, about thirty-five millions; and that in the short space of fourteen years. This is a striking view of the decline of foreign trade under the high tariff policy; but it is by no means the strongest view which the case admits. That strongest view will be seen in the dissection, or analysis, of our export trade for those years; an operation which will show that the decline has fallen, not generally upon all our exports, but partially and exclusively on the products of the earth—the products of the South and West—while the exports of the Northeast have actually increased during the same period.

Here is the analysis:

In 1816, the domestic exports were:	
In the products of agriculture, -	$53,354,000
of the forest, -	7,293,000
of the sea, - -	1,331,000
of manufactures, -	1,755,000
In 1830, they were:	
In the products of agriculture, -	$46,976,332
of the forest, -	4,192,047
of the sea, - -	1,726,270
of manufactures -	6,557,380

Here, sir, is proof for you! Here is demonstration? Here is the logic of the exact sciences! Here is the true working of the high tariff policy! And what does it prove to you? It proves that agriculture in the year 1830 is worth seven millions less than in 1816, instead of being worth one-third, or seventeen millions more; that the products of the forest—a kindred product to agriculture—are three millions less in 1830 than 1816, instead of being three millions more; that the products of the sea, instead of declining like the others, have actually advanced near half a million; and that

the products of the manufactories have advanced upwards of threefold, from one million and three-quarters to six million and a half! This logic of figures puts to flight all the delusive theories which would either deny the fact of a decline in our foreign commerce, or attribute it to the diminution of money, and consequent fall of prices. The produce of the high tariff States is not affected by those causes. The produce of the sea, namely, fish, oil, whalebone, and spermaceti, which goes from the high tariff States in the Northeast, sells as well as ever. The produce of the manufactories, too numerous to be detailed, especially after reading a list of them an hour ago, also goes from the same State, and is vastly increased. But the produce of agriculture, namely, beef, pork, bacon, flour, grain, cotton, rice, tobacco, &c., &c., which goes from the Southern and Western States, is largely sunk in value; the produce of the forest, which goes principally from the same States, and consists of skins and furs, of tar, pitch, rosin, and turpentine, of staves and shingles, hewn timber, masts, spars, boards, and other lumber, has also sunk in value. Sir, there is no mistake in these figures! no error in these deductions! no room for any diversity of opinions! The high tariff works alike, throughout all its departments, and in every operation, at home and abroad. It is hurtful to the farmer and the planter; it is beneficial to the fisherman and the manufacturer. It sheds the whole of its benign influences upon the Northeast; it reserves all its baleful effects for the South and West!

Several speakers, Mr. President, have read to us the accounts of British oppression during our colonial vassalage. They have shown that we were allowed to manufacture nothing for ourselves, and were compelled to purchase the manufactures of the mother country. This was certainly a great oppression upon the colonists, and deserved their highest resentment; but in some respects the present state of trade between the West and the high tariff States is on a worse footing for the West than that of the colonists was with the mother country. In the first place, the colonists bought their manufactures from the mother country at a cheaper rate than we buy from the high tariff States, especially in the essential articles of woollen goods. In the next place, the colonists paid in their own productions, we in money. In the third place, the colonists furnished the raw materials to be worked up in England, while the West furnishes scarcely any raw material for the Northeastern manufactures, and many of them employ foreign materials, to the exclusion of American materials. We have a very striking instance of this in a memorial now upon our tables from a firm of flax manufacturers near Philadelphia. It contains this remarkable sentence: "The manufactures your memorialists produce are from foreign flax exclusively, and consist of shoe threads, tailor's threads, twines, and flax and tow yarns entering into other manufactures, as checks, linens, carpeting, patent floor cloth, boot webbing, and hair seating, which cannot be made from the flax grown in this country, of a quality to answer the purposes of the consumers." Now, under the old colonial system, these manufacturers would have been obliged to use American flax, and to have paid Americans for it; but under our high tariff, they buy the flax from abroad; and the high duties upon all the manufactures of flax, as threads and twines, checks and linens, carpetings and floor cloths, boot webbing and hair seating, enables them to sell the manufacture sufficiently high to enable them to buy the foreign material, and the people are to be deluded with the story that this is a domestic manufactory! The quantity of foreign flax imported into the United States in two years after the tariff of 1828, and remaining in the country for consumption, was ninety-six thousand seven hundred and forty-two dollars' worth; which, of course, went into our domestic manufactories. It is the same thing with other articles; for our custom-house books show an import of foreign wool, since the tariff of 1824, to the value of two million seventy-two thousand one hundred and eighty-five dollars; of foreign hemp to the value of three million five hundred and forty-one thousand six hundred and forty-two dollars; of foreign indigo to the value of four million eight hundred and thirty-five thousand seven hundred and sixty-seven dollars; of foreign raw hides to the value of eleven million one hundred and seventy-two thousand seven hundred dollars; and of foreign furs to the value of two million seventy-seven thousand two hundred and thirty-five dollars: making, in the whole, an importation of foreign materials, in five articles alone, to the amount of twenty-five millions of dollars, in the short space of six years, between the years 1824 and 1830. And this is the net amount which remained in the country for consumption, after deducting the re-exportations. This immense sum has been paid to foreigners, instead of American citizens; so that, in this respect, our trade with the Northeastern manufacturers is on a far worse footing than that of the old colonists with Great Britain. But I trust that this hardship will soon be relieved, and that, in the modification of the tariff at the present session, the farmers and planters of the United States will be admitted into the benefits of the American system, and secured in the domestic supply of the raw materials to our domestic manufactories. I hope for this much for the farmers, and for the honor of the system. For nothing can be more absurd than to erect domestic manufactures upon foreign materials; nothing more contradictory than to predicate independence for goods upon dependence for materials to make them out of; nothing more iniquitous than to give to the manufacturers the home market of goods, and not give to the farmers the home market of raw materials; nothing more insulting to the understandings

of the people, than to call such a one-sided monopoly an American system.

The West, then, Mr. President, in common with all the agricultural portions of this Union, has a deep and direct interest in the preservation and extension of foreign trade. If she looked to her interest alone, if she looked at the question under the single aspect of selfish benefit, she would be an advocate for unrestricted commerce with all the world. She would continue the cry, upon which she went to war twenty years ago, for free trade and sailors' rights! But the West is not individual in her existence, nor egotistical in her policy. She is a sectional division of an extended confederacy; she belongs to a great political system; she is subject to a duplicate form of Government; and these conditions impose upon her obligations, which neither duty nor patriotism permit her to disregard. Her Government must be supported, and that support requires revenue; her independence must be maintained, and that independence requires a home supply of certain articles. Foreign commerce presents the most convenient subject for revenue, for the support of the Federal Government; and the levy of that revenue may be made the means of encouraging the production of the essential articles which our independence requires to be made at home. Hence the necessity of qualifying the unlimited freedom of trade, which our pecuniary interest might require; and hence, also, the measure of that qualification. And this, Mr. President, brings me back to a point which I mentioned before, and which, upon this subject, is the law and the prophets with me: revenue, to the extent of the Government wants; protection as an incident to revenue.

Mr. President, I hope I have been fortunate enough to make myself intelligible to the Senate. I certainly understand myself, whether others do or not. I am an enemy to unnecessary taxation, and mean to vote for reducing the revenue to the wants of the Government. I am an enemy to a public debt, to its substance as well as to its shadow, and mean to vote for relief from the burdens as well as relief from the name of our present debt. I am a friend to domestic industry, and intend to give it a fair protection under the regular exercise of the revenue-raising power. I am a friend to a judicious tariff, in contradistinction to an injudicious, or a political, or a sectional one; and mean to have regard to every public interest—the farmer as well as the manufacturer—the consumer as well as the producer—the importer as well as the exporter, in adjusting the future scale of the tariff duties. Above all, I am a friend to the cultivators of the earth, and mean to labor hard to give them some benefit from the reduction of the revenue, in lowering the price of land! and abolishing the tax on salt. For the rest, I am in favor of action, not words. I am for going to work on the tariff bill, and ceasing to debate on the tariff resolutions. I am in favor of dropping both the resolutions before us, and sending another to a committee, directing that committee to bring in the whole tariff in one bill—every item now subject to duty; that we may take it up for decision, begin at the beginning, and go to the end; altering what we can alter, and showing the result to the people, for their approval or condemnation. This is what I am now for; and for this purpose, I now conclude my speech, and offer you a resolution in amendment, or substitution of those which are now depending, (instructing the committee to which the subject should be referred, to report a bill embracing all the items on which a reduction might be thought proper, either with or without fixing the rate of duties on each article.)

The Senate then adjourned.

MONDAY, March 19.

The Tariff.

The Senate again proceeded to consider the following resolutions, submitted by Mr. CLAY on the 9th January last:

Resolved, That the existing duties upon articles imported from foreign countries, and not coming into competition with similar articles made or produced within the United States, ought to be forthwith abolished, except the duties upon wines and silks, and that they ought to be reduced.

Resolved, That the Committee on Finance report a bill accordingly.

And Mr. HAYNE's amendment thereto, proposed on the 16th of January, viz:

Strike out all after the word "countries," and insert as follows:

"Be so reduced that the amount of the public revenue shall be sufficient to defray the expenses of Government according to the present scale, after the payment of the public debt; and that, allowing a reasonable time for the gradual reduction of the present high duties on the articles coming in competition with similar articles made or produced within the United States, the duties be ultimately equalized, so that the duty on no article shall, as compared with the value of that article, vary materially from the general average."

Mr. HAYNE then called for a division of the question; and the vote was first taken on striking out all of the original resolution after the word "*Resolved*," by yeas and nays, and negatived, as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, King, Miller, Moore, Poindexter, Robinson, Smith, Troup, Tyler, White—18.

NAYS.—Messrs. Bell, Buckner, Clay, Clayton, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Marcy, Prentiss, Robbins, Seymour, Silsbee, Sprague, Tipton, Tomlinson, Waggaman, Wilkins—23.

The President declared that the amendment of Mr. HAYNE was rejected, and the original resolution adopted.

TUESDAY, March 20.

Land Grant to Missouri.

Mr. BENTON asked and obtained leave to introduce a bill granting to the State of Missouri five hundred thousand acres of the public lands, for the purpose of internal improvement within that State; which was read, and ordered to a second reading.

WEDNESDAY, March 21.

Land Grant to Louisiana.

The following resolution was submitted by Mr. WAGGAMAN:

Resolved, That the Committee on Roads and Canals be instructed to inquire into the expediency of granting to the State of Louisiana 500,000 acres of the public land, to aid the said State in keeping open the watercourses communicating with the Mississippi, and for such other objects as may be considered of public utility.

Land Grant to Mississippi.

Mr. POINDEXTER offered a resolution of inquiry relative to a grant of 500,000 acres of land to the State of Mississippi, for purposes of internal improvement.

THURSDAY, March 22.

The Tariff—Mr. Wilkins' Amendment.

Mr. WILKINS then submitted the following amendment to the resolution:

Strike out all after the word forthwith, and insert the following: "so far reduced, or altogether abolished, as to bring down the amount of the public revenue to a sum sufficient to defray the ordinary expenditures of the Government, after the payment of the national debt, as proposed in the late report of the Secretary of the Treasury, and without a view to a surplus revenue, or for distribution, having such regard as they may deem expedient to such an ultimate equalization of duties as will render them efficient for the purpose of their imposition."

Mr. WILKINS said it was conceded that the revenue must be reduced in consequence of the approaching extinction of the public debt; and the question was, in what manner the duties should be spread over the various articles of imports. He was not willing to concede, in arranging the duties, the principle of protection. However erroneous the legislation of the country may have been, which led to the present posture of its industry, he was opposed to the abandonment of that system. He did not deem it consistent with public faith to withdraw from manufactures that protection under which they had grown up. He was willing, however, to conciliate the interests opposed to this system, and for that purpose he had prepared his amendment, and should offer two resolutions, which he read as follows:

Resolved, That the Secretary of State be requested to report to the Senate the laws and commercial regulations of foreign countries in relation to duties on imports, and the bounties and other regulations for the encouragement of exports, which in any manner tend, in their effect and operation, to counteract the duties now imposed by law on their importation into the United States, as far as they may have been received at the department, since the receipt of those published by order of Congress.

Resolved, That the Secretary of the Treasury be requested to report to the Senate the present credits on duties on imports; and the expediency of providing by law for the gradual reduction thereof, to what extent, and at what time. Also, to report on the expediency of making such alterations in the existing laws, as to provide for the assessment of ad valorem duties, according to a valuation of imported articles in the port or place of importation; and, also, to report whether any, or what alterations ought to be made in the law imposing duties on non-enumerated articles of importation, so as effectually to prevent frauds, and the evasion of the payment of the duties.

Mr. HAYNE inquired of Mr. WILKINS whether he understood him, correctly, as proposing only to repeal the duties on the unprotected articles, leaving the protected articles untouched. Such would certainly be the effect of his amendment, which touches none but the articles coming into competition with those made or produced in the United States; and how a reduction of the duties on them, amounting, in the whole, to no more than seven millions of dollars, could reduce the revenue to a sum sufficient merely to defray the expenses of the Government, was more than he could understand, unless the expenses were to be enormously increased.

Mr. WILKINS supposed that the reading of the resolutions, with which he proposed to accompany his amendment, would have satisfied the gentleman from South Carolina as to the extent of reduction to which he was willing to go. If, by any change of our commercial regulations, and the present mode of collecting duties, an equivalent could be given to the manufacturer, he would be willing to reduce the duties on the tariff articles to that extent. A beneficial change could also be made in the imposts on what are denominated non-enumerated articles; and, also, in the valuation of imported goods. By assessing the duties in proportion to the value of the goods in the United States, instead of their value at the foreign port, a material benefit would result to the American manufacturer, and frauds on the revenue would be lessened. With these changes, he thought some reduction of duties might be made on the tariff articles, without operating to the injury of domestic industry.

Mr. CLAY made some remarks in opposition to the amendment. If any thing was to be done this session, in relation to the tariff, it must be done without the very long delay which

the adoption of the resolutions would occasion, unless the session should be extended through the year. The amendment, by itself, would not effect any object which the gentleman had in view. After all, there was but one question to be decided—whether we were to retain the protective principle or not. Afterwards the question would arise, on what protected articles a reduction could be made. It was difficult to say *a priori* what should be the precise reduction of duties on all articles. If we reduce or abolish the duties on unprotected articles, at this session, to the extent of seven millions, and leave the protected class of duties untouched till the next session, we should probably go far enough, though not so far as he was willing to go. But the adoption of the gentleman's proposition would inevitably prevent the possibility of effecting any reduction whatever at this session.

Mr. MARCY said he did not rise to enter into the discussion of the general subject of the tariff, but to explain his views in giving the vote which he had given, for not striking out the resolution of the Senator from Kentucky. He had voted against striking out, because he did not approve of the amendment proposed by the Senator from South Carolina, to be inserted in lieu thereof; but he did not intend by the vote he had given to express his approval of the entire resolution of the Senator from Kentucky. He felt disposed to concur with him in a part of it. So far as it went to remove the duties on non-protected articles, as they had been called, which are objects of common consumption—articles which all classes and conditions of our citizens are in the habit of using, he was ready and willing to give it his support. But the resolution was general in its operations upon non-protected articles; it proposes to take off the duties on such as are consumed only by the rich and luxurious. He should, therefore, when the amendment of the Senator from Pennsylvania (Mr. WILKINS) should be disposed of, propose an amendment, the effect of which would be to retain a duty, but less than that now imposed, on articles usually denominated luxuries, as well as on wines and silks. He was aware, he said, that the duty which he wished to retain on these articles, might not be indispensably necessary for the purpose of revenue, but there were reasons very sufficient to his mind for retaining them. The abolition of all duties on articles of luxury, while, for the purpose of protection, duties were continued on articles which were consumed by the less wealthy and the laboring classes of our citizens, was wrong in principle, and would strengthen the opposition to the policy of protection; it would furnish another ground of attack upon it. As a friend of protection, he felt unwilling to do any thing that would strengthen the hands of those who would destroy it altogether. He would confess, for himself, he felt somewhat alarmed for the safety of the protecting policy, and he thought its friends had much to do to save it from utter prostration. He thought the Senator from Kentucky was mistaken in the extent of the conquests the protecting policy had made over the opposition to it. That opposition was extensive and strong; and unless something was done by the friends of protection to remove or disarm it, he feared it would ere long prevail. If we proceed no farther than the resolution under consideration proposes to go, we shall leave more discontent in the country when we adjourn, than there was when Congress first met. The resolution proposes partial legislation—it left untouched the duties on protected articles. The whole tariff required revision, and there was no good reason for not making it at this time. No Senator had spoken on this subject, who has not admitted that the present law, laying duties, is very defective. It has been repeatedly alleged here that it was made by the enemies of the protecting system, and made as bad as it could be, and then forced upon the friends of that system. If this be so, we ought not to shrink from a review of it, for the purpose of removing the acknowledged imperfections, and introducing such improvements as are necessary to preserve protection and appease discontent. He was, he said, opposed to legislating piecemeal on the subject. If the duties on non-protected articles were removed now, the duties on the protected articles, which were the grounds of complaint, would remain unacted on. He was for having the whole subject sent to a committee, and he had expected some Senator would have proposed an amendment to accomplish this end; but finding the other day, when we were about to pass finally on the resolution, no such modification was proposed, he had prepared one, which would open the whole subject to the committee. At the end of the first resolution of the Senator from Kentucky (which proposes to abolish forthwith the duty on non-protected articles, except wines and silks, and to reduce it on them) he would add the following: "And that the duties on articles imported into the United States, similar to such as are made or produced therein, ought to be so graduated as not to exclude such foreign articles from coming into competition in our markets with those made and produced in the United States; but to establish the competition on such terms as shall give a reasonable encouragement and protection to the manufactures and products of the United States."

Mr. WILKINS spoke in reply to the Senators from Maine and Kentucky. He thought it perfectly practicable to review and arrange the whole system at this session. He wished to have the inquiry made, whether, by a change in commercial regulations, an equivalent can be afforded to the manufacturers for a reduction of the duties on protected articles. He did not pretend to say how far this purpose would be effected by abolishing credits on duties, and by the adoption of another valua-

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Mr. WILKINS said it was conceded that the revenue must be reduced in consequence of the approaching extinction of the public debt; and the question was, in what manner the duties should be spread over the various articles of imports. He was not willing to concede, in arranging the duties, the principle of protection. However erroneous the legislation of the country may have been, which led to the present posture of its industry, he was opposed to the abandonment of that system. He did not deem it consistent with public faith to withdraw from manufactures that protection under which they had grown up. He was willing, however, to conciliate the interests opposed to this system, and for that purpose he had prepared his amendment, and should offer two resolutions, which he read as follows:

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Resolved, That the Secretary of the Treasury be requested to report to the Senate the present credits on duties on imports; and the expediency of providing by law for the gradual reduction thereof, to what extent, and at what time. Also, to report on the expediency of making such alterations in the existing laws, as to provide for the assessment of ad valorem duties, according to a valuation of imported articles in the port or place of importation; and, also, to report whether any, or what alterations ought to be made in the law imposing duties on non-enumerated articles of importation, so as effectually to prevent frauds, and the evasion of the payment of the duties.

Mr. HAYNE inquired of Mr. WILKINS whether he understood him, correctly, as proposing only to repeal the duties on the unprotected articles, leaving the protected articles untouched. Such would certainly be the effect of his amendment, which touches none but the articles coming into competition with those made or produced in the United States; and how a reduction of the duties on them, amounting, in the whole, to no more than seven millions of dollars, could reduce the revenue to a sum sufficient merely to defray the expenses of the Government, was more than he could understand, unless the expenses were to be enormously increased.

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Mr. CLAY made some remarks in opposition to the amendment. If any thing was to be done this session, in relation to the tariff, it must be done without the very long delay which

the adoption of the resolutions would occasion, unless the session should be extended through the year. The amendment, by itself, would not effect any object which the gentleman had in view. After all, there was but one question to be decided—whether we were to retain the protective principle or not. Afterwards the question would arise, on what protected articles a reduction could be made. It was difficult to say *a priori* what should be the precise reduction of duties on all articles. If we reduce or abolish the duties on unprotected articles, at this session, to the extent of seven millions, and leave the protected class of duties untouched till the next session, we should probably go far enough, though not so far as he was willing to go. But the adoption of the gentleman's proposition would inevitably prevent the possibility of effecting any reduction whatever at this session.

Mr. MARCY said he did not rise to enter into the discussion of the general subject of the tariff, but to explain his views in giving the vote which he had given, for not striking out the resolution of the Senator from Kentucky. He had voted against striking out, because he did not approve of the amendment proposed by the Senator from South Carolina, to be inserted in lieu thereof; but he did not intend by the vote he had given to express his approval of the entire resolution of the Senator from Kentucky. He felt disposed to concur with him in a part of it. So far as it went to remove the duties on non-protected articles, as they had been called, which are objects of common consumption—articles which all classes and conditions of our citizens are in the habit of using, he was ready and willing to give it his support. But the resolution was general in its operations upon non-protected articles; it proposes to take off the duties on such as are consumed only by the rich and luxurious. He should, therefore, when the amendment of the Senator from Pennsylvania (Mr. WILLKINS) should be disposed of, propose an amendment, the effect of which would be to retain a duty, but less than that now imposed, on articles usually denominated luxuries, as well as on wines and silks. He was aware, he said, that the duty which he wished to retain on these articles, might not be indispensably necessary for the purpose of revenue, but there were reasons very sufficient to his mind for retaining them. The abolition of all duties on articles of luxury, while, for the purpose of protection, duties were continued on articles which were consumed by the less wealthy and the laboring classes of our citizens, was wrong in principle, and would strengthen the opposition to the policy of protection; it would furnish another ground of attack upon it. As a friend of protection, he felt unwilling to do any thing that would strengthen the hands of those who would destroy it altogether. He would confess, for himself, he felt somewhat alarmed for the safety of the protecting policy, and he thought its friends had much to do to save it from utter prostration. He thought the Senator from Kentucky was mistaken in the extent of the conquests the protecting policy had made over the opposition to it. That opposition was extensive and strong; and unless something was done by the friends of protection to remove or disarm it, he feared it would ere long prevail. If we proceed no farther than the resolution under consideration proposes to go, we shall leave more discontent in the country when we adjourn, than there was when Congress first met. The resolution proposes partial legislation—it left untouched the duties on protected articles. The whole tariff required revision, and there was no good reason for not making it at this time. No Senator had spoken on this subject, who has not admitted that the present law, laying duties, is very defective. It has been repeatedly alleged here that it was made by the enemies of the protecting system, and made as bad as it could be, and then forced upon the friends of that system. If this be so, we ought not to shrink from a review of it, for the purpose of removing the acknowledged imperfections, and introducing such improvements as are necessary to preserve protection and appease discontent. He was, he said, opposed to legislating piecemeal on the subject. If the duties on non-protected articles were removed now, the duties on the protected articles, which were the grounds of complaint, would remain unacted on. He was for having the whole subject sent to a committee, and he had expected some Senator would have proposed an amendment to accomplish this end; but finding the other day, when we were about to pass finally on the resolution, no such modification was proposed, he had prepared one, which would open the whole subject to the committee. At the end of the first resolution of the Senator from Kentucky (which proposes to abolish forthwith the duty on non-protected articles, except wines and silks, and to reduce it on them) he would add the following: "And that the duties on articles imported into the United States, similar to such as are made or produced therein, ought to be so graduated as not to exclude such foreign articles from coming into competition in our markets with those made and produced in the United States; but to establish the competition on such terms as shall give a reasonable encouragement and protection to the manufactures and products of the United States."

Mr. WILKINS spoke in reply to the Senators from Maine and Kentucky. He thought it perfectly practicable to review and arrange the whole system at this session. He wished to have the inquiry made, whether, by a change in commercial regulations, an equivalent can be afforded to the manufacturers for a reduction of the duties on protected articles. He did not pretend to say how far this purpose would be effected by abolishing credits on duties, and by the adoption of another valua-

tion system; but these regulations, as they exist, certainly have an unfavorable bearing upon the protected interests. He would not abandon the system, for he considered it as constitutional and expedient. But he would yield much for the sake of having the subject settled at once, and forever. He was not afraid of the delay growing out of his amendment. It would have a great effect. Inquiries had been set on foot by the Treasury Department, which would result in very important information.

Mr. TAZEWELL said that, in effect, there were three distinct propositions under consideration, and it was necessary to compare these with each other, before any correct opinion could be formed as to the propriety of adopting either. It was true that the Senator from New York (Mr. MARCY) had not yet presented his scheme in form; but as he had read his resolutions in his place, and had announced his purpose of offering them as a substitute for the amendment proposed by the Senator from Pennsylvania, (Mr. WILKINS,) if the latter should be rejected, the Senate was so compelled to consider this project in deciding upon the propriety of adopting either of the others.

Comparing these three schemes according to the grammarian's mode, he would say that that of the Senator from Pennsylvania was in the positive degree, and was simply bad; that of the Senator from Kentucky (Mr. CLAY) was in the comparative, and was worse; and that of the Senator from New York was in the superlative, and was the worst of all. Or, if gentlemen pleased to reverse this comparison, he would say that the New York project was positively bad, the Kentucky project comparatively better, and that of Pennsylvania was the best of all of them, although, for himself, he must say that bad was this best. Therefore, if he was bound to take one of these bitter potions, he should be compelled to take the last as that which was the least disagreeable.

All these several plans propose to reduce the amount of the future revenue of the United States; and the question was, how much? To this question the Senator from Pennsylvania answers, to the measure of the ordinary expenses of the Government, so as to leave no surplus in the Treasury, to become hereafter the subject of scuffle and scramble; and this he announces in the terms of his amendment itself without qualification or reserve. The Senator from Kentucky said the same thing in his argument, but he does not express it in his resolution; and he qualified the declaration made by him, by saying afterwards that his scheme of reduction would be limited by that protection. Give him adequate protection for manufactures, and he announced distinctly his perfect willingness to reduce the amount of the revenue to any point which the most moderate would propose. To use his own strong language, in that case, he would not be "outbragged" by any one. But adequate protection he must and would retain, even if the preservation of such protection shall bring more revenue into the Treasury than the ordinary expenses of the Government required. It is obvious, then, that the expressed and unqualified proposition of the Senator from Pennsylvania is better than this.

So far as they regard the revenue derivable from what are called the duties on unprotected articles, both the Senators from Pennsylvania and Kentucky concur in proposing the total abolition of all these duties, except those imposed on wines and silks. In this respect, then, their schemes are similar. But that of the Senator from New York differs from each of them in this: he, although in favor of a diminution of the duties imposed upon some of these unprotected articles, is for retaining all the duties imposed upon others, which he called luxuries. His reason, too, for this, deserves some notice. He tells the Senate that, if they repeal the taxes which are now imposed upon articles consumed by the rich only, the tariff policy will become more odious than it now is. Therefore, for the purpose of preserving the American system in good odor with the people, they must retain the duties upon luxuries, and continue the burdens unnecessarily imposed upon the rich, lest the poor, (I beg pardon of the gentleman from Pennsylvania, who has told us that there were no poor in this country,) lest the less wealthy, (to use his phrase,) should complain more loudly than they now begin to do of the grievous impositions upon their comforts and necessaries. The Senator from New York is unwilling, then, to reduce the revenue even to the extent proposed by the Senator from Kentucky.

The Senator, with his accustomed frankness, told the Senate that the revenue, if reduced to the full extent of his scheme, by abolishing all the duties imposed upon all the unprotected articles, would still, he feared, amount to at least eighteen millions, three millions more than the Treasury report states to be requisite to satisfy the utmost wants of the Government. But he could not agree to reduce it more at present, because he should then be compelled to diminish the necessary protection required for the support of his favorite system, which he was not disposed now to do. The Senator from New York proposes, however, to retain a large portion of even these duties, which both the other Senators are willing to abolish, and this with a distinct knowledge that such a proposition must necessarily augment the amount of revenue, and so increase the quantum of the surplus "spoil," to be hereafter distributed in some form or other.

Of all the evils, said Mr. T., which in his judgment were most to be deprecated in this country, was the accumulation of surpluses in the Treasury. Its effects must be either to transform this Government into a monster of wanton and bloated extravagance, or to generate new feuds and differences between the States as to the mode of distributing it. Either result would be equally destructive of the Union

of the States, and the liberties of the people. For one, therefore, he should ever support that scheme of finance which promised to produce as little as possible beyond the actual exigencies of the Government; and, in our present condition, the public debt being discharged, he would prefer even a deficit to an excess of revenue.

The striking difference which he had stated was neither the sole nor the least dissimilitude between the three several projects he was then examining, said Mr. T. They differ from each other even more in the manner than in the measure of reduction. The Senator from Pennsylvania, while agreeing with the two other Senators, in his determination of preserving unimpaired the actual protection to manufactures, is, nevertheless, willing to commute it for other equivalents of as much potency, if these shall be considered as more acceptable. He announces three different plans: the payment in cash of the duties imposed upon foreign articles which enter into competition with our domestic manufactures; a scheme of warehousing such imported articles; and a new mode of ascertaining their value by appraisements to be made at the place of importation. And he tells the Senate that, whatever of protection the adoption of all or of any of the different schemes may be considered as worth, that amount he is willing to deduct from the amount of the present duties for encouragement. Thus diminishing still more the receipt of surplus revenue, while preserving existing protection; and holding out some other advantages which seem to me to be well worthy of further examination. The Senators from Kentucky and New York, however, are neither of them willing to touch the present system of protection, in any mode whatever.

So far as the duties on the unprotected articles are concerned, both the Senators from Pennsylvania and Kentucky are willing to abolish them altogether, with the exception of wines and silks; but the Senator from New York says no, most of these duties are imposed upon luxuries, and although they are not required for either revenue or protection, yet, if you disburden the rich, while you continue to oppress the less wealthy, you will surely make your American system more odious than it now is, and will so endanger its future fate. Therefore, keep such duties on, although they are not wanted. So far as the protecting duties are concerned, the Senator from Pennsylvania is willing to commute them for satisfactory equivalents, to be furnished by a system of commercial regulations, which, having no regard to revenue, will necessarily diminish the risk of a surplus in the Treasury. The Senator from Kentucky is unwilling to adopt this course now, from no indisposition to attain its objects, if I understand him correctly, but from an unwillingness to disturb the protecting policy in any way at this time. For he declares his desire to reduce the duties of protection hereafter, in all cases where they give more than reasonable encouragement to the manufacturing industry, if any such there are. But the Senator from New York announces his determination, not merely to preserve the present system, so far as it gives a reasonable encouragement to this branch of industry, but never to permit any rival foreign commodity to enter into competition with the home-made article, except under circumstances giving advantage in the competition to the home manufacturer. This, in effect, is to give a monopoly of the home market to the home manufacturer, to the extent of the supply he is about to make; and then lets in the foreign commodity at an increased price to the consumer, which, while it must oppress him, is neither required to defray the expenses of the Government, nor to protect the manufacturing industry. It is, therefore, an oppressive burden, wantonly imposed, without any other object than to accumulate a surplus in the Treasury.

In this view of the subject, said Mr. T., although I do not approve of the scheme of the Senator from Pennsylvania, yet it seems to be so far preferable to both the others, that I shall give it my support at present. What may be the vote I may give, if the amendment obtains, it will be time enough hereafter to state.

Mr. HENDRICKS rose to inquire of the Chair, if it would now be in order to move to refer the whole subject, the resolutions of the Senator from Kentucky, and the amendment proposed by the Senator from Pennsylvania, to one of the Standing Committees of the Senate; and being informed by the President that it would be in order, he proceeded, and said:

It was then his purpose, before resuming his seat, and after he should have made a very few observations, to move a reference of the whole subject to the Committee on Manufactures. It must now be obvious, said Mr. H., that the further we progress in the discussion of these abstract resolutions, the greater will be our difficulties; and the less probable it is that we shall ever agree on any thing. These resolutions have been before the Senate more than two months. And surely no member of the body can entertain the opinion that we are in the least degree approaching unanimity; but that, on the contrary, we are further apart now than when we began; and, indeed, the amendment recently proposed, especially in connection with other amendments suggested, seem to be producing a degree of confusion, and a greater diversity of opinion, than has been manifested in any previous stage of the debate.

Mr. H. then moved that the whole subject, both the resolution of the Senator from Kentucky, and the amendments proposed by the Senator from Pennsylvania, be referred to the Committee on Manufactures.

Mr. KING said: Mr. President, it is my design to detain the Senate but a few minutes, but I cannot consent the reference proposed should

be made, without giving my view of the effect which it is calculated to produce. Sir, I have not been an inattentive observer of this whole proceeding; more than two months past, the Senator from Kentucky introduced his resolutions, instructing the Committee on Finance to bring in a bill to abolish, forthwith, all the duties on articles unprotected, with a slight exception as to silks and wines. A labored and protracted debate ensued, which I forbore to take any part in, from a conviction that no practical good could result from the discussion. Mr. President, no man in the Senate, or in this nation, feels more sensibly than I do, the unjust operation of the tariff upon the section of country in which I reside; and no man is prepared to go further, in a constitutional resistance to this oppressive system, than I am; but, sir, I had hoped, most ardently hoped, that a spirit of conciliation would have guided the deliberations of this Congress; that discontents would be removed by just legislation; and that harmony would be restored to our distracted country. I will not say, sir, that this fondly cherished hope is entirely destroyed; but I must confess the course pursued by the Senator from Kentucky, and his friends, is well calculated to weaken the expectation that this all-important subject will be amicably adjusted. Sir, that Senator, it is true, has been liberal in his professions; he has said he will reduce the revenue to the lowest sum which may be required to meet the wants of the Government; and how, sir, does he propose to effect this? Merely by a repeal of the duties on the unprotected articles now, and at a more convenient season resort to further legislation; for he has repeated over and over again, with great emphasis, "you must not touch the protected system." This system, so holy in the eyes of the Senator, of taxing the many for the benefit of the few, which draws from the pockets of our people more than seventeen millions of dollars annually, must not be touched. I am not, Mr. President, disappointed in the Senator from Kentucky; he is consistent with himself; but, sir, I am surprised and pained at the proposition of the Senator from Pennsylvania; from him, I am free to confess I had hoped better things. Is this the evidence he gives of the spirit of conciliation by which he was actuated? To me the amendment proposed is decidedly more objectionable than the original resolutions; they are plain to every understanding; while the amendment, equally avoiding all interference with the protected articles, proposes so to reduce the duties on the unprotected class as to bring down the revenue to the actual demands of the Government. An annual revenue of more than twenty-six millions of dollars is thus to be brought down to the wants of the Government, which none, I believe, will contend, should exceed fifteen millions, and most of us are of the opinion should not be more than twelve, by a reduction of duties on articles which do not pay altogether seven millions. Sir, I will not give utterance to the feelings the proposition is calculated to excite.

Mr. DICKERSON said, the advantage of this reference is this: that the committee may report a bill, upon which we may act with more practical effect, than upon an abstract proposition. If the Senate adopt the resolution to instruct the committee to report a bill upon the principle contained in that resolution, they may feel under obligations to support such bill. If the bill should be reported without such instructions, no Senator, except the committee reporting the bill, will be in any way committed to support it, no more than if the bill should be introduced upon leave, or if introduced by the committee under their general powers, according to the suggestion of the Senator from Alabama, (Mr. KING.) It may be true, as the Senator suggests, that the Committee on Manufactures have the power to report such a bill as is called for by the resolution, but the committee think it more becoming them to perform duties than to exercise power. Had the committee reported such a bill under their general powers, it is possible they might have been informed by that Senator that they had performed a service not required by them. The power to report such a bill will, I presume, be exercised by the committee as soon as they can know that such exercise of power will meet the approbation of the Senate.

Mr. POINDEXTER said that, if the resolution of the honorable Senator from Kentucky (Mr. CLAY) could be so amended as to change its affirmative character into an instruction of mere inquiry on the subject to which it relates, he should make no objection to its reference to the Committee on Manufactures in that shape; but, as the proposition affirmed a principle from which he (Mr. P.) dissented, he could give no vote which might, in the remotest degree, imply his sanction of it. It had been said by several honorable Senators, that to refer this resolution, with the several amendments laid on the table by the honorable Senator from Pennsylvania, would leave the whole subject open to the committee, in the same extent as if it was sent to them in the form of an inquiry. He thought otherwise. The Senator from Kentucky had, at an early period of the session, offered a resolution to instruct the Committee on Finance to report a bill on certain general principles, on which the opinion of the Senate was asked. After a protracted and interesting discussion, a vote had been taken on striking out the whole of the original resolution, and inserting an amendment proposed by an honorable Senator from South Carolina; and, on a division of the question, the Senate have solemnly determined to retain the resolution in the form in which it was presented by the Senator from Kentucky.

Does not this decision pledge a majority of the Senate to sustain by their future votes any bill which may be reported, carrying out the broad proposition of the mover of the resolu-

tion, which we are called on to refer without any modification whatever? The committee, in the performance of its duty, will regard this reference as an expression of an opinion favorable to the views of the Senator from Kentucky, and we may forthwith expect a report, with all the details necessary to carry this new system into effect.

He protested against any such modification of the tariff of 1828 as that proposed, leaving all its offensive features untouched, and rendering it even more odious and objectionable to the great body of the American people, than it would be without any attempt to change the system. He had listened attentively to the debate which had occupied so much of the time of the Senate, on abstract questions of political economy; he considered such a debate wholly unprofitable, and as leading to no practical result: there was no end to speculative reasoning and opinions on this absorbing subject; and until some definite scheme was matured and submitted to the Senate, he did not feel disposed to participate in the discussion. But he could not vote to send the resolution of the Senator from Kentucky to any committee, fortified by the sanction which it had received by a refusal to strike it out, and insert the amendment of the Senator from South Carolina, unless it was so modified as to show on its face that nothing more was intended than to draw the attention of the committee to the subject which it embraced. He felt a deep solicitude that all just cause of dissatisfaction, and every ground of discontent among the people, might be removed, by a reduction of duties on foreign importations to a reasonable standard during the present session. Let us, said he, in a mutual spirit of compromise and concession, do justice to all, and restore tranquillity to this distracted country; but certain he was that this object, so much to be desired, could not be achieved by adopting the scheme of the Senator from Kentucky. He should, therefore, vote against the proposed reference of the resolution. Mr. P. afterwards offered, as an amendment, the resolutions which he had laid on the table in December last; which was agreed to.

Mr. HAYNE said, that whatever difference of opinion might exist as to the general effect of the mere reference of a resolution to a committee, it appears to me that no two minds can be brought to different conclusions as to the effect of referring this particular resolution to the Committee on Manufactures. The point in dispute between the friends and opponents of the protecting system, is, whether, in the proposed modification of the tariff, we shall separate the unprotected from the protected articles; and, proceeding forthwith to abolish the duties on the former, leave the latter untouched. The resolution of the Senator from Kentucky, (Mr. CLAY,) now under consideration, and the amendment of the Senator from Pennsylvania, (Mr. WILKINS,) embraces those articles only "which do not come into competition with similar articles made or produced within the United States." The rejection of my motion to strike out this resolution for the purpose of inserting an amendment, looking to a general reduction on all articles, protected as well as unprotected, has left before us the naked proposition of so modifying the tariff as to take off the duties entirely from the unprotected articles, leaving all of those which affect the protected articles; in plain terms, to maintain the protecting system in its most odious form, and its most oppressive character. And this is the proposition which it is now moved to refer to the Committee on Manufactures—a committee known to be favorable to such an arrangement of the tariff as is proposed in this resolution—a committee, of which the Senator from New Jersey (Mr. DICKERSON) is chairman, and the Senator from Kentucky (Mr. CLAY) a member—a committee, four members of which out of five are known to be devoted advocates of the American system. What, I would ask, can be the effect of such a reference, but to put the proposition of the gentleman from Kentucky into the form of a bill, and to have it in the course of a very few days brought up to be passed into a law? It is vain for gentlemen to tell us that the committee may, if they please, extend the reduction to other articles than those embraced in the resolution referred to them. No one can suppose, for a moment, that they will do so; and when the Senate, after due deliberation on the subject, determines to submit to them the single proposition to reduce or abolish the duties on wines, silks, velvets, spices, and other articles of luxury, it is hardly to be imagined that such a committee will go out of their way to take up another and distinct proposition—the reduction of the duties upon the necessaries of life, such as woollens, cottons, and iron, not referred to them.

After a few observations from Mr. CLAY, who contended that the adoption of the motion would not commit the Senate, Mr. KING renewed his motion to lay the resolution on the table; which motion was lost by the following vote:

YEAS.—Messrs. Bibb, Brown, Ellis, Forsyth, Grundy, Hayne, Hill, King, Mangum, Miller, Moore, Poindexter, Smith, Tazewell, Troup, Tyler, White—17.

NAYS.—Messrs. Bell, Benton, Buckner, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Kane, Knight, Marcy, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—29.

Mr. FORSYTH moved to amend the motion, by also instructing the committee to take into consideration the following proposition submitted by Mr. HAYNE, and rejected some days since:

Strike out all after the word "countries," and insert—"Be so reduced, that the amount of the public revenue shall be sufficient to defray the expenses of Government according to their present scale, after the payment of the public debt; and that,

allowing a reasonable time for the gradual reduction of the present high duties on the articles coming into competition with similar articles made or produced in the United States, the duties be ultimately equalized, so that the duties on no articles shall, as compared with the value of that article, vary materially from the general average."

Mr. HENDRICKS having accepted the motion as a modification of the one made by him,

Mr. POINDEXTER also moved that the committee be further instructed to take into consideration the following resolutions, submitted by him on the 22d December last:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of fixing a rate of duties on foreign imports, not to exceed, on any article imported into the United States, more than twenty per cent. ad valorem; and not to reduce the duty on any article so imported below ten per cent. ad valorem; and to arrange such duties, having regard to all the great interests of the country, so as to produce a net revenue of not less than fifteen millions of dollars annually.

Resolved, That the said committee be further instructed to inquire into the expediency of giving effect and operation to said system of duties on the 30th day of June next.

Mr. BIBB moved that the committee be further instructed to take into consideration the propriety of reducing the price of the public lands; to which motion Mr. ROBINSON added further to instruct the committee to inquire into the expediency of transferring them to the States in which they lie, on reasonable terms.

The several propositions were accepted by Mr. HENDRICKS as modifications of his motion.

Mr. HAYNE rose, and said, that, after reflecting on what has just been said by the Senator from Georgia, it appeared to him that an observation had fallen from that gentleman, susceptible of misconception, and, therefore, requiring explanation. That gentleman, in the course of his observations, had said that, "though he was as strongly opposed as any one could be to the whole protecting system, yet he was not disposed to resort to any illegal or unconstitutional measures to put it down—nor would he adopt a course opposed to the constitution of the Union." Now, sir, I desire to know from the Senator from Georgia whether, in using these expressions, he intended to impute to me, or my friends, any hostility to the constitution or the Union.

Mr. FORSYTH replied that he had intended no imputation upon the Senator from South Carolina, or his political friends. He had reference merely to a certain doctrine which had been propagated at the South, which he believed to be unconstitutional, and the tendency of which he considered as unfavorable to the permanency of the Union.

Mr. HAYNE then said that he was satisfied with the explanation. The gentleman from Georgia was certainly at liberty to entertain his own opinions as to the tendency of any doctrines promulgated here or elsewhere. I will take this occasion, however, to say that there are no persons in this country—come from which quarter they may—more sincerely attached to the Union, or more devoted to the constitution, according to its true spirit and meaning, than those whom I have the honor to represent on this floor; none more inflexibly determined to maintain the integrity of the one, or the rights secured by the other, though they may differ very widely from the gentleman from Georgia as to the means by which these objects are to be accomplished.

Mr. BENTON rose to second the motion of the Senator from Kentucky, who sat on his right, (Mr. BIBB,) and to thank him also for having made it. It was cheering to hear a voice from Kentucky, the eldest daughter of the West, in favor of reducing the price of the public lands. That question had occupied the younger States of the West for many years, and at this time engrossed and absorbed their feelings. A future plan of revenue was now to be settled; and, in the settlement of that plan, a preliminary question, as to the disposition of the public lands, forced itself upon the mind of every statesman, and every citizen of the West. The Committee on Manufactures—he did not say with how much propriety—had become invested with the fiscal concerns of the Union! with the whole business of settling the future plan of revenue! It had collected into its hands all the objects of revenue, except the public lands; and he (Mr. B.) must insist, so far as his voice could insist, upon their considering that object also. The question for that committee to decide was this: upon what articles shall duties be reduced or abolished? Surely the public lands which now produce three millions of dollars, and a few years hence will produce five millions, are rather too large an object to be skipped, or overlooked, or passed by without observation, in answering that question. He was rejoiced that the Senator from Kentucky, on his right, (Mr. BIBB,) had brought it forward; heartily glad that he had moved its reference to the committee which now had the system of future revenue in its hands, and he would cordially vote for sending the inquiry to that committee for its consideration and report.

Mr. KANE said that he should be excused by the Senate for rising at so late an hour, when the fact was stated that the people he represented were incomparably more interested in a change of the land system of the United States, than in any conceivable adjustment of the tariff. As strange as it might appear, there was now a necessity, founded upon the principle of a uniform dispensation of justice to all parts of the country, for referring the important subject of the public lands to the Committee on Manufactures. That committee had in charge not only the protection of American manufactures, but that of the revenue and finances of the States. Every gentleman, who, in the course of the debate which had occupied so much time, had spoken of the repeal or diminution of the duties

upon imposts, and of the amount necessary to be retained for the purposes of Government, had proceeded upon the idea that the receipts from land sales were to remain as they were. That the sum of three millions, annually accruing from that source, was to be set down as a matter of course to the account of revenue; and, whether gentlemen had settled down upon eighteen, fifteen, thirteen, or twelve millions, as the proper sum for Government purposes, no one had hinted at diminution, either in the price of lands, or in the amount to be derived from their sale. Against all calculations, based upon the expectation that every thing was to be diminished, except the price of public land, he felt himself bound to protest; and he was, therefore, in favor of referring this matter to the Committee on Manufactures, that they might consider whether this source of revenue alone was to remain untouched.

Mr. HENDRICKS said that he accepted the proposition of the Senator from Kentucky, (Mr. BIBB,) with the amendment to it proposed by the Senator from Illinois, (Mr. ROBINSON,) as a modification of his motion to refer; and however incongruous it might, at first thought, appear to refer any thing connected with the public lands to the Committee on Manufactures, yet he believed it to be a very proper disposition of the matter. The resolution proposed to be referred, was the commencement of a series, by which the revenues were to be reduced to the wants of the Government after the payment of the public debt.

Mr. WHITE said: The simple proposition is, that the Committee on Manufactures inquire into the expediency of reducing the price of the public lands, and of disposing of them, upon reasonable terms, to the States in which they respectively lie.

Others, in favor of this proposition, have insisted that, as this committee have already been invested with all the other powers which appropriately belong to the Committee on Finance, they ought also to be clothed with this, as the public lands, annually, yield to the Treasury a considerable sum of money. Suppose them to be mistaken in the effect of this argument, I contend they are still right in the reference they wish. The appropriate duty of the Committee on Manufactures is to see that suitable and adequate protection is afforded to what is called, by its friends, the American system, or American industry. We cannot forget, that a few years ago one of our public functionaries, in making his report to Congress, made this very matter, the price of the public lands, an essential ingredient in this American system; and broached the doctrine that the large quantities put in the market, and low prices for them, were injurious to domestic manufactures, and unreasonably favored the business of agriculture, as none would labor cheap for the manufacturers, who could, for a small sum, purchase land in the West, and cultivate his own freehold.

The question was then taken first on the motion with all the modifications, with the objection of that of Mr. BIBB, and decided as follows:

YEAS.—Messrs. Bell, Buckner, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Frelinghuysen, Foot, Hendricks, Holmes, Johnston, Knight, Marcy, Prentiss, Robbins, Robinson, Ruggles, Seymour Silsbee, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—27.

NAYS.—Messrs. Benton, Bibb, Brown, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, King, Mangum, Miller, Moore, Poindexter, Smith, Tazewell, Troup, Tyler, White—19.

Mr. BIBB said he had a sense of the dignity of the Senate, and of what was due from him as one of its members, too high to permit him on this occasion, or any other, to trifle with its deliberations. He hoped he had, heretofore, conducted himself in the most respectful manner to the Senate, and he had resolved in his own mind, at all times, hereafter, to contribute his aid to support the dignity and independence of the Senate, as a co-ordinate branch of the Government.

I can assure my friend from Missouri (Mr. BUCKNER) that I am serious in offering the resolution for instruction to the Committee on Manufactures, to inquire into the propriety of reducing the price of the public lands. If there is an apparent incongruity between the subject proposed to be referred, and the style of the committee to whom it is to be referred, that fault is not chargeable to me, but to the vote of the majority of the Senate in referring the subject of revenue and finance to the Committee on Manufactures, in preference to the Committee on Finance. I did not vote for that reference. But as the reference of the other questions of revenue has been voted to the Committee on Manufactures, I have no alternative but to move a reference of this subject to the same committee.

The near approach to the extinguishment of the public debt has disengaged from that service the amount of ten millions heretofore appropriated as the sinking fund, together with the additions to that fund arising from excesses of other appropriations above the actual expenditures. In this state of excess of revenue, accruing from our existing system, beyond the future demands upon the Treasury, we are imperiously called to cut down the revenue; in fact, to revise the whole revenue system. Whatever committee is charged with this duty, must be charged with all the parts. They must look at all the sources which are to pour their streams into the general Treasury. Now, the receipts from the sales of the Western lands have constituted a prominent item in the estimates of the Secretary of the Treasury for years past. At the present session, the report of the Secretary of the Treasury estimates the revenue from that source at three millions of dollars. As the price of the public lands was graduated with a view to the extinguishment of the public debt, now that the public faith and public

pledge of that fund is redeemed, it would seem but just that, in reducing the revenues, that branch should experience a proportionate alleviation. Whatever may be the sum proposed to be provided for the annual expenditure of the Government, whether fifteen, thirteen, or eleven millions of dollars, the sum to be received from the sales of the Western lands must be first deducted, before the amount to be raised by the imposts can be estimated: and the rate of duties on imported articles cannot be adjusted until the amount proposed to be raised from that source is ascertained. Whatever committee is charged with the subject of imposts, must have an eye to the other sources of revenue. They must look to the revenue system as a whole, before they apportion its respective parts. It would be very incongruous to refer one part of the system of revenue to one committee, and another part of the system to a different committee. To produce a connected, well-proportioned, and just system, the same committee must have charge of all the component parts.

Mr. ROBINSON said: Mr. President, as our candor is appealed to, permit me to assure the honorable Senator from Kentucky, (Mr. CLAY,) that the friends to the proposed amendment, in relation to the public lands, are no less serious than anxious for its reference to the Committee on Manufactures; not because that, of all others, it is the most appropriate committee to have charge of this subject, but because it is the only remaining branch of the revenue which has not been referred to that committee. And, for one, I cannot see why its reference is objected to by the members of that committee, after just manifesting not only a perfect willingness, but an anxiety, to have charge of the whole subject in relation to duties, as well on articles coming into competition with those of home growth and manufacture, as of that class which does not come into such competition.

It has, by the same honorable Senator, been triumphantly asked, what can the Committee on Manufactures be expected to know about the public lands? I may very safely answer—at least as much as about the cultivation of coffee, tea, and olives, or the manufacture of silks, mull muslins, or camels' hair shawls, and all the long list of articles imported into our country, and which are neither produced nor made in the United States, the duties on which this committee are now about to arrange.

Sir, the West has but little, very little, direct interest in the protective system. We are not, and never will be, manufacturers; but we are, and ever must be, agriculturists. Give us the lands on reasonable terms, and we will not be heard to complain, be the tariff arranged as it may. Whilst I am frank to acknowledge, with myself there are no constitutional scruples or doubts as to the policy of sustaining the tariff, even to protection, I must say that I think the reference of the resolutions, with the several amendments which have been offered, by way of instructions, would have been more appropriate if made to the Committee on Finance, or, as suggested by the honorable Senator from Virginia, (Mr. TAZEWELL,) to a Select Committee, chosen from the Western, Southern, and Eastern States, equally. I voted for the present reference, that the subject might be presented in the tangible shape of a bill, and do hope that the whole subject connected with the revenue may be acted on by the same committee, and at the same time.

Mr. TAZEWELL said: So far as this matter is concerned, the people of the United States may be properly considered as divided into three great classes; the manufacturing class, the producing class, and the class composed of the inhabitants of the States within whose limits large bodies of unoccupied lands are still held, because yet unsold by the United States. The public revenue is now derived from each of these classes, and in something like the following proportions:

The manufacturing class pays but little, comparatively, of the amount of revenue derived from the imposts on foreign articles similar to those manufactured by themselves. Their own supply is very nearly, if not quite equal to their own demand of these protected articles. Consequently, far the greater portion of the taxes imposed, for the purpose of encouraging and protecting their manufactures, is paid by the other two classes. The manufacturing class is then plainly interested in continuing all the duties imposed for their protection or encouragement, which taxes are paid, almost exclusively, by the other classes, and amount to about fifteen millions of dollars.

The manufacturing class is also interested in continuing the present price of the public lands; for if this is reduced, the necessary effect will be to encourage greater emigration to the Western country, so to augment the wages of the labor now employed in manufactures, and thus to diminish the profits of manufacturing capital. This effect has been often announced, in various reports from a former Secretary of the Treasury, a part of whose grand project of regulating the whole labor and capital of the country was, to make lands dear, in order that manufactures might, thereby, be made cheap. And the same idea, in effect, has been again presented to the Senate to-day, in the speech of the honorable Senator from Maine, (Mr. SPRAGUE.)

But, although the manufacturing class is thus interested in continuing the present high duties of protection, from whence a revenue of at least fifteen millions is now derived; and, in continuing, also, the present price of public lands, from the sale of which a revenue amounting to three millions of dollars more is now received; yet this class is interested in the abolition of all other taxes, that is to say, of all the duties upon unprotected articles, because, of these, this class pays its full proportion, by consuming at least its full share of such commodities. Hence my friend from New Jersey is very willing to

repeal or reduce all these duties, although he feels no disposition to curtail any of the other supplies.

The producing class is interested, like the manufacturing class, in reducing the duties upon the unprotected articles, because, of these, they too are consumers, and of course bear a share of the burden in proportion to their consumption. But as the whole of the revenue now derived from this source is estimated by no one at more than seven millions of dollars; as no complaints have ever been urged against these imposts, and as they fall, principally, upon the rich, who are well able to bear them, the producing class feels less interest in the reduction of this branch of the revenue, which bears justly and equally, than it feels in the diminution of the other great sources of supply—the imposts upon protected articles. This last tax falls upon them almost exclusively, and principally upon their poor; it is nearly double of both the other supplies put together, and so bears most unequally, unjustly, and oppressively upon this class.

In regard to the public lands, the producing class have no interest whatever in this subject, or, if they have any, it is rather opposed to the reduction of the price of these, as a reduction of the price of lands anywhere must, to some extent, influence the price of lands everywhere in the same country. But as the present condition of the country does not require the preservation of all the sources of revenue as they now stand, the producing class is willing and desirous to act justly with each of the other classes. They say, reduce the amount of the public burdens now unnecessarily imposed upon all classes, to an amount not greater than may be sufficient to satisfy all the reasonable wants of the Government. In this reduction, consult the wishes and grievances of all, and remove every burden which can properly be dispensed with, until you have arrived at the proposed point. Do not relieve the rich alone, however, by abolishing the duties which fall upon them, but disburden the poor also. Do not relieve the manufacturing class from their share of a common and legal imposition, and continue much greater burdens upon the other classes. Do not lighten the heavy load which is now borne by some, by taking off that portion of its weight which is felt to be grievous by them only; but, in this long-looked-for day of expected relief, diminish the burdens of all. And as you cannot relieve one of the classes so well in any other mode, as by reducing the price of the public lands, grant this boon to them also, that none may remain dissatisfied.

The class of our citizens who are inhabitants of the several States within which the public lands are situated, are interested but little, if at all, in any of the duties of impost, whether these are imposed upon protected or unprotected articles. The remote position of far the greater part of this class in the interior of the distant West making the cost of transportation of all such commodities considerable, and the supply irregular, must augment the price, to them, of all imported articles, so much as to prevent such articles from entering much into their consumption. Therefore, whether the duties of imposts are continued or abolished, is of but little consequence to them. In either case, they must rely mainly upon their own household manufactures and productions to supply their own wants. Duties of protection give no encouragement to them, for they are not made for sale; and if these duties were abolished, the same cause which produced such manufactures at first, must continue them still. This class, therefore, feels but little direct interest in any of the duties of impost.

But, although indifferent to this part of the subject, they are not indifferent to the other. The sales of the public land act as a perpetual drain of their currency, the amount of which is continually reduced by remittances of the proceeds hither; and thus the value of their whole capital and labor is kept in a state of perpetual fluctuation, to the great detriment of the interests of both. Moreover, according to the price of the public lands within the limits of the States, will be the migration to them. Diminish this price, and you multiply the number of emigrants desirous of purchasing there. Thus you increase the number of the inhabitants of these States, so open new sources of revenue to their local Governments, and augment at once the price and value of all their productions. Besides, while the United States continue to be the great landlords of the West, the people of the several States within whose limits their farms exist, are so made the tributaries of this Government, dependent upon its power and patronage more than any others. Surveys are made, land offices are opened, and offices created there at our discretion. By bringing more or less of land into the market at any time, and at any place, we are so enabled to regulate the price of the property of every one in these dependent States, and to give to the tide of emigration whatever direction we please. I do not say that these powers have ever been used for these purposes, but merely that they exist, and may be so used. Of this the Western States are perfectly aware; and to their consciousness of the existence of such a power may be ascribed much of what has occurred in this Government. All these causes combine to induce the class of which I am now speaking, to desire relief from the burdens they produce, by a reduction of the price of the public lands. The boon they ask is so small in itself, that I, for one, said Mr. T., am disposed willingly to grant it, especially as it is the only benefit which they can get, probably, in the arrangement of the new system of revenue.

These considerations ought to satisfy every one, said Mr. T., of the propriety of connecting the subject of the public lands with any and every other project for the establishment of a new system of revenue and taxation. It is

vain to say that the various sources of supply may be examined separately, and each acted upon by itself. This is true; but who can say with confidence, that when one of the great classes of which I have spoken, have procured the gratification of their desires, in the repeal or reduction of the burdens which bear most grievously upon them, that they will then aid in administering like relief to others? The mere possibility that they may not do so, will naturally excite suspicions and jealousies, which ought to be avoided, if possible. This can be done, however, only by connecting the three subjects indissolubly together, and incorporating the provisions concerning each in one and the same bill, the fate of which bill will then depend upon the faithful observance and preservation of all its connecting links.

Mr. BIBB's proposition was then decided in the affirmative, by the following vote:

YEAS.—Messrs. Benton, Bibb, Brown, Dallas, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Poindexter, Robinson, Smith, Tazewell, Tipton, Troup, Tyler, White, Wilkins—26.

NAYS.—Messrs. Bell, Buckner, Clay, Clayton, Dickerson, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Knight, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Waggaman, Webster—20.

MONDAY, March 26.

The resolutions submitted yesterday by Mr. WILKINS were taken up, and agreed to.

Unclaimed Dividends.

The resolution some time ago offered by Mr. SPRAGUE, calling for a list of the names of persons owning unclaimed dividends on public stocks, was taken up.

Mr. SPRAGUE said, it appears that we have in the possession of the Government about 200,000 dollars, belonging to persons who have owned stock in the funds. The dividends are unclaimed, because the persons to whom they belong are ignorant of the fact that those whom they represent, as heirs or administrators, ever owned stock on which the dividends had not been drawn. He thought it was due to honesty to give to the public the information, in order that the persons interested may be made aware of their rights.

Mr. CLAY opposed the resolution, as opening a wide door to fraud—as giving an invitation to impostors to come forward, with their wax and parchment, and claim money which does not belong to them, because there is nobody to dispute their claims. The Government was not bound as a public debtor, to publish a list of the names of its creditors. The old Bank of the United States never published any list of the names of its creditors, though they created a fund for their payment. He thought it would be better for the members of Congress and others to look over the books, and give the information to such claimants as may be within their knowledge. This, he thought, would be a sufficient degree of publicity.

Mr. SMITH stated that Congress had uniformly decided against the proposition to publish the names, for the reasons just given by the Senator from Kentucky.

On motion of Mr. CLAYTON, the resolution was laid on the table.

TUESDAY, March 27.

Apportionment Bill.

On motion of Mr. WILKINS, the bill apportioning representatives among the several States of the Union, was taken up—the question being on the motion to reconsider the vote by which Mr. WEBSTER's amendment was rejected.

After some debate on a question of order which arose,

Mr. CLAY spoke briefly upon the question of reconsideration. Were this a question for the first time presented, he might decide in favor of the representation of fractions; but, as he considered that the question had long been put at rest by the decisions and practice of the Government, he should feel himself compelled to vote against any bill providing for fractional representation. He should, however, vote in favor of a recommitment of the bill, in the hope that some means might be devised for rendering it more acceptable to the several States.

The question was then taken on the motion to reconsider, and decided in the affirmative.

Mr. WEBSTER expressed a wish that before the Senate proceeded further in the matter, a vote might be taken in full Senate (now there were forty-seven present, and to-morrow the whole number would be here) upon the representation of residuums on fractions. He suggested, therefore, the expediency of trying that question, before the Senate proceeded any further. If the question was postponed till to-morrow, the absent Senators would probably attend. If the Senate should decide in opposition to the representation of fractions, then the bill might be committed with a view to such other attention as might render it less unequal in its character.

Mr. FORSYTH did not believe that any one Senator had changed his mind on the question of the constitutionality of representing fractions. He proposed, therefore, that the vote should be taken now on that question; and if it should be found that the result would be varied by the presence of the Senator from Delaware, (Mr. NAUDAIN,) he would move a reconsideration of the vote on Mr. WEBSTER's amendment; and

The question being taken on the reconsideration, it was determined in the affirmative, by yeas and nays, as follows:

YEAS.—Messrs. Bell, Benton, Buckner, Chambers, Clayton, Clay, Dickerson, Ewing, Foot, Frelinghuysen, Hayne, Holmes, Johnston, Knight, Mangum, Miller, Poindexter, Prentiss, Robbins,

Seymour, Silsbee, Smith, Sprague, Tomlinson, Waggaman, Webster—26.

NAYS.—Messrs. Bibb, Brown, Dallas, Dudley, Ellis, Forsyth, Grundy, Hendricks, Hill, Kane, King, Marcy, Robinson, Ruggles, Tazewell, Tipton, Troup, Tyler, White, Wilkins—20.

The bill was then, after considerable conversation, recommitted to a Select Committee of five members, viz: Messrs. WEBSTER, CLAYTON, MANGUM, FORSYTH, and HAYNE, to consider and report thereon.

WEDNESDAY, March 28.

Colonization Society.

Mr. CLAY rose, and said he had received a memorial signed by a large number of the citizens of Kentucky, inviting the attention of Congress to the subject of the colonization of the free blacks on the coast of Africa, and requesting the aid of Congress to accomplish that object. He felt some difficulty with regard to the proper disposition of the memorial. The general subject was one, than which, perhaps, no other had more seriously engaged the attention of the people of this country. No man, he presumed, could fail to cherish the hope that at some day or other, however distant, and in some mode, the country would be rid of this the darkest spot on its mantle. How that was to be accomplished, it was, perhaps, not allowable to the present generation to foresee. All, however, must unite in the hope that, at the proper time, the proper means would be devised to arrive at this most desirable end. With respect to the constitutional question involved, he entertained not the slightest doubt that the subject of abolition of slavery could not be touched by the General Government; it belonged peculiarly and exclusively to the States where slavery existed; they, and they alone, were directly concerned; and they only had the power to entertain the question. With respect, however, to the great question of the final disposition of the African race among us, he would take the liberty to remark that, in his opinion, the first great effort should be to rid our country of the free blacks as a preliminary measure. In that object, all the States had a common interest—none were exclusively interested. Whether the General Government possessed powers to accomplish that object, was a question of great and serious import, and deserved a more careful and thorough investigation than in the present state of the country could be probably made. The idea had been entertained by some, whose opinions were entitled to much respect, that, in reference to the public lands, Congress possessed more extensive powers than it does in respect to appropriations of the ordinary revenue of the country. This was a question of great importance, and required the most serious consideration. He would now content himself with the simple discharge of his duty in presenting the memorial, in asking for its reading, and in moving to lay it on the table.

Mr. HAYNE said, before the gentleman makes his motion to lay the memorial on the table, I wish to make a few observations in relation to its present and ultimate objects. The subject is one not only of deep interest, but calculated to produce very unpleasant feelings at the South, where it is perfectly understood in all its relations. This was not the first time that questions of that nature had been presented the Senate. On one occasion no notice had been taken of the memorial; and on the other, a report had been made by the committee who had the subject under consideration, adverse to the objects of the memorialists. Mr. H. was glad that the Senator from Kentucky did not intend to press any decision at this time, as that would undoubtedly tend to increase the excitement which now prevails in one quarter of the Union. It was true, that in the appropriation by Congress, of funds asked for to accomplish the objects of the Colonization Society, the question of slavery was not directly touched; but he must be blind who did not see that, if the powers of the General Government were conceded to carry into effect the first preliminary measures of the Society, the colonization of the free people of color on the coast of Africa, its power to accomplish the ultimate object in view, the removal of the whole of the African race from the United States, would, in due time, be claimed as a necessary consequence. The advocates of this scheme avow the principle of the constitutional power of the Federal Government, which covers the whole ground. What is it? The right in the Federal Government to impose taxes and appropriate money for purposes of colonization—a power certainly not to be found in the Constitution of the United States, never recognized by the States, and which rests on the assumption that the power of taxation and appropriation, in which the colored population exists, is unlimited. The Southern States would never feel secure, with regard to this question, unless the powers of this Government, to levy and distribute money, were limited to the definite objects specified in the constitution; and, unless that question was settled, he, for one, would never feel secure for the rights or the property of the Southern States, exposed, as they will be, to be constantly assailed through the Treasury of the United States. Mr. H. was glad that the Senator from Kentucky had disclaimed any intention to touch the question of slavery. He himself should certainly not enter upon it. He (Mr. H.) had risen to give timely notice that he would resist, to the utmost, now, and at all times hereafter, any attempt to touch the colored population, by the interposition of the General Government. It is a matter which belongs, exclusively, to the several States, and Congress cannot interfere with it by appropriations of money, or otherwise, without assuming a power not conferred upon them by the consti-

tution; a power capable of being perverted, and which, he verily believed, would be perverted to objects absolutely fatal to the Southern States.

Mr. CLAY said it was not his intention to engage in any discussion at this time. But, while he might be allowed to say that he perfectly agreed with the Senator from South Carolina, that the General Government could not, constitutionally, entertain for a moment the question of abolition of slavery, he could not agree with him that the subject of colonizing the free blacks belonged exclusively to South Carolina, Georgia, and other protesting States. With regard to the slave question, the States mentioned by the gentleman were not the only ones concerned. There was the State of Maryland, the State he represented, (Kentucky,) and some of the Southwestern States. But Mr. C. repeated again, that, as respected slavery, there was not a particle of power in the General Government to touch the question; and he should not, nor was it necessary for him to enter upon it. But the question, as respected the money power of the Government, was emphatically a South Carolina question. It was from two of the most eminent men that South Carolina had ever produced, that he first heard, on the floor of the House of Representatives, the doctrine broached that the power in the General Government to appropriate money was without limit or restriction. When he first heard that doctrine, he had expressed his decided disapprobation of it, and contended, as the Senator from South Carolina now does, that the money power of the Government was limited by the other powers granted in the constitution. With regard to the appropriations of the public lands, that was another question. It had been contended by some that Congress had the power to dispose of them at will; but, assuming the existence of such unlimited control, whether it would be proper to apply their proceeds to the colonization of the free blacks or not, he would not now give an opinion. When the proper time had arrived, he hoped the subject would have the fullest consideration. But the question, as it respected the free blacks, was not peculiarly a Southern question; the great Northern capitals contained a comparatively greater portion of that population than any other portion of the Union. The State of Maryland, which, according to the late census, contained a very large portion of them, had constantly, earnestly, and enthusiastically, raised her voice in favor of the objects of the Colonization Society. The question of colonization then belonged to all the States where free blacks were to be found, and they were to be found in every one of them, and they had all, therefore, the unquestionable right to confer with the slaveholding States as to the expediency of applying such means as the General Government can constitutionally apply towards ridding themselves of the evil by colonization.

Mr. CHAMBERS said, the deep interest felt in Maryland, in regard to the question, must excuse him for saying a word. The Senator from Kentucky had remarked justly, that no State in the Union had so large a population of free blacks as Maryland; a population of which the State was anxiously disposed to rid itself. It was equally true that the Colonization Society had been regarded as presenting the most probable facilities to effect this most desirable result. The Society had, therefore, been cherished and aided by the State, and an appropriation from its Treasury was annually made to promote the objects of the Society. He would take leave to say, however, that while the State was thus affording aid and encouragement to the Society, it would be a most egregious error to suppose that this was done in any purpose to countenance a power in the General Government to interpose, in any manner, or in any degree, with the question of slavery. On this question Maryland is altogether a Southern State. Neither South Carolina, nor any other State, will be found more firm or more prompt to protest against the assumption of any such power by the National Legislature. Such was the state of feeling and opinion of his State; and while he had the honor to be an organ of that feeling and opinion, it should be most fully expressed.

But the objects of this Society had never been considered by the people of Maryland to be such as the Senator from South Carolina now describes. That Senator must be altogether mistaken in reference to those objects. He was justified in this remark, not only by the fact which he had stated, of the encouragement given by Maryland, but also by the concurrent testimony of the States of Delaware, Virginia, Georgia, and Tennessee, all slaveholding States, and each of which had, in the most formal and deliberate manner, approved the objects of the Society. It was impossible to conceive that these States could have expressed their approbation of an institution, the very purpose of which was to assail an interest, in regard to which, above all others, they were singularly sensitive.

Mr. HAYNE said, in reply, that he had expressly stated, in the beginning, that he did not intend to enter, at this time, into the merits of the Colonization Society; when that question came before the Senate, he should be prepared to give it a thorough examination. At present he must be permitted to make one or two observations in reply to the gentlemen from Kentucky and Maryland. Some of the most respectable and distinguished individuals who were members or advocates of the Colonization Society, had avowed that they viewed that scheme as chiefly valuable, because it looked eventually to a removal of the whole of the African race from the United States, and the consequent abolition of slavery. The Senator from Maryland had declared that the State he represented was friendly to the objects of the Society, and made an annual appropriation tow-

ards it. Mr. H. hoped that Senator did not understand him as objecting to any separate action by the States on this subject; that was a matter for their own sound discretion. The States might contribute what money they pleased to the removal of their own free people of color, and no one had a right to complain; his objection was to the General Government taking a matter in hand with which they had no constitutional right to interfere. With regard to the distinction drawn by the Senator from Kentucky, between an appropriation of the public lands and the public money, he would not then enter into a discussion, though he confessed he could see no difference in the principle. He would only now repeat, that whenever the General Government should assert the power to levy and appropriate money, or to apply the public lands towards the objects of the Colonization Society, it would inevitably lead to the consequences which he had deprecated—for it would rest on an assumption of power not to be found in the constitution; and when the rights of the Southern States should come to be held by no better tenure than the discretion of Congress, he should consider their value as gone forever. His only object, at this time, however, was to enter his protest, as he had often done before, against any such exercise, by Congress, of what he must consider as unconstitutional power.

The memorial was then laid on the table.

THURSDAY, April 5.

Revolutionary Pensions.

The Senate, in Committee of the Whole, then proceeded to the consideration of the revolutionary pension bill.

An amendment, offered by Mr. FOOT, to include the officers of the navy and marines within the provisions of the bill, was agreed to, without a division, after a few words from Mr. FOOT.

Mr. WILKINS then moved to amend the bill by striking out the word "and" where it occurs before "soldiers," and inserting after "soldiers" the words "and Indian spies."

Mr. FOOT expressed the acquiescence of the committee in this amendment. It had been intended to embrace all classes who had been subjected to risk, whether they were designated as State troops, regular troops, volunteers, militia, or any others who had been draughted, and had served for nine months during the war. The same subject had been discussed in committee, and it was intended to embrace the class of men designated by the Senator from Pennsylvania.

Mr. WILKINS rejoined, that if such was the intention of the committee, there could be no objection to making the intention more definite.

Mr. MARCY moved to amend the amendment by inserting between the word "soldiers" and the words of the amendment, "express riders, boatmen, wagoners."

Mr. SMITH said he should object to including persons who, if they did any service, ran no risk in its performance. He was of opinion that the classes mentioned by the gentleman from New York, should not be put on the same footing with Indian spies. Wagoners and boatmen, who were hired out by their employers or masters, ran no risk. This was too bad.

Mr. HAYNE said he thought differently from the gentleman from Maryland. If volunteers were entitled to the provisions of the bill, he saw no reason why wagoners and boatmen should be excluded. He would carry the principle out still further, and include farmers. The farmers who furnished the means of subsistence, had as good a claim as the wagoners who transported it. Nay, he hoped the Senate would go through with it, and pension the people—give a pension to all who lived in the time of the revolution. The evident object of the bill is to take money out of the public Treasury. This he could prove to be the object. Ay, he could prove it. We are about to pension every man who, in a war of seven years, served for a period of fourteen months. Is there a man who lived in those times, who did not, at some period or other, serve six months? Even after the war of the revolution had terminated, and the preliminaries of peace had been signed, and Cornwallis had surrendered, there were hangers-on in the camp, who served, and were entitled. He hoped, therefore, that not only wagoners and boatmen, but farmers, traders, drovers, all would be included. He would embrace all who lived before the signing of the treaty. If all who ran risks, rich and poor, were to be placed on an equal footing, he would include all.

Mr. SMITH stated that he had been applied to by a constituent, who had been a sailmaker during the revolution, and who thought it hard that he was excluded from the benefit of the pension law. Mr. S. said he asked him, "Have you served in the militia? Did you ever march?" "No; but I made sails for a privateer."

The question was then put, and the amendment to the amendment was negatived.

The question recurring on the amendment moved by Mr. WILKINS,

Mr. GRUNDY stated, that whatever might be his final vote on this bill, he would never vote to include any who have not meritorious claims. He had understood that this bill would not be pressed after the expiration of the hour. With a view to allow time to prepare his amendment, he moved to lay the bill on the table, and proceed to the orders of the day.

These motions being decided in the affirmative, the Senate proceeded to the orders of the day.

MONDAY, April 9.

Revolutionary Pensions.

Mr. FOOT, the morning business having been gone through, moved that the Senate now take up the bill supplementary to an act for the relief of certain surviving officers and soldiers of the revolution.

Mr. GRUNDY expressed a hope that the Senate would not take up this bill to-day. There was an important debate pending, which occupied the whole attention of the Senate; and it would be found impossible to carry on two important discussions at the same time, with any advantage to the public interests.

The question was then put on taking up the bill, and carried in the affirmative—yeas 20, nays 16.

Mr. ROBINSON moved to amend the bill in the 6th line, by inserting after the word "militia," the words "and officers and soldiers who served under Generals Wayne and Clarke in the Northwestern Territory, and in the Indian wars, after the revolution."

Mr. SMITH said that if this class were to be admitted, he knew of no reason why the soldiers under Harmar, St. Clair, and Hamtramck, should not be included. They came before Wayne. As the bill was now about to be amended, it would lead to an expenditure of a million a year. He had been so much deceived on a former occasion, that, hereafter, he should put no trust in calculations.

Mr. FOOT remarked that the Senate had already decided the principle that no pension should be granted except for military services performed in the war of the revolution.

Mr. BIBB said that he cared not on what ground the Senator from Connecticut put this bill. In any view, the present proposition was entitled to as much attention as any which could be presented to the Senate. When General Clarke entered into the contest, Kaskaskia and Vincennes were both in the possession of the British troops, and we had not a right to a single foot northwest of the Ohio. General Clarke, out of his own means, raised men, strained his own resources to the utmost, and, at the moment when General Hamilton, the British commander, deemed himself to be in perfect security, attacked him, rescued these strong positions from his grasp, and made him a prisoner. General Clarke was so pushed for cannon, that he had to make a substitute by using logs; and General Hamilton actually shed tears when he marched out of the fort, and was, for the first time, made sensible of the smallness of the force (about half his own) to which he had surrendered. But for this brilliant achievement, we should have no settlement in all the country lying northwest of the Ohio; for we had taken no step to establish ourselves there; and there was no mutiny, or what was called "rebellion" in the language of the day, which could have led to an alienation from Great Britain. All that we have acquired in that region of country is the fruit of the capacious intellect of General Clarke.

Who, he asked, were the allies of Great Britain? They were the Indians; and it was through these allies that the West had to contend against the power of Great Britain during the war of the revolution; and if the Indian war continued in the West after that of the revolution, it was a continuation of that war, because the Indians were excited by Great Britain. On this principle, the classes embraced in the amendment have performed what comes within the meaning of revolutionary services.

We have a treaty formed with Great Britain in 1793, but this treaty did not end the Indian war in the West. But he would put the adoption of the amendment on another ground. We now possess the Northwest Territory, disencumbered of Indians. Great Britain held this country and protected it, and we could not have held it by any right which we could have set up. In 1794, when General Wayne put an end to the Indian war, we had but one settlement, and that lying under the protection of the guns of the fort. He could not move in that region without leaving a chain of forts behind him, and the troops which he commanded were all to be drawn from Kentucky, for there was not a military man around him. When he marched, he sent word to General Washington that the Indians were too powerful for him, and he had to fight them in garrison and in fortress. General Scott, who was then in Philadelphia, was sent to his relief by General Washington; and after his arrival the battle was fought. Are we to disregard services of this character? He trusted not; but he hoped that they would be deemed by the House as important as those of the revolutionary war.

But, looking at the matter on the score of justice, it must be admitted that no men were more entitled to the benefits of this bill than the hardy, brave, and adventurous men who contended against the scalping-knife and the tomahawk—as dangerous service as any in which men were engaged. We have received from them services far, in value, exceeding any compensation we can give in return; for they conquered the whole of that extensive country, and have left it in our hands.

Mr. GRUNDY said that if any men were entitled to the benefit of this bill, these men were clearly the most entitled. Why do we give pensions at all? It is on account of the hazards encountered by individuals, and the benefits which have resulted from those hazards to the country. If there were any other ground on which these claims were placed, he did not know it. This class of men had suffered more than any other which had served in the war. They formed a part of the revolutionary army. After the treaty of 1783, when we were in the enjoyment of peace and safety, the Indian war continued to rage in the West during ten or twelve years. These men were engaged by the

Government, and ran risks greater than those endured by four-fifths of the persons included in the provisions of the bill. And if they suffered as much in the same cause, why are the benefits of the bill to be given to one set of men, and not given to another? Why extend them to the time of the disbanding of the general army, and not include those who were retained in the service beyond that period? The few left of these men reside in the West; and it is not to be expected that Western Senators would sit still, and not secure to their constituents that to which they are so justly entitled.

Mr. ROBINSON expressed his readiness to accept the suggestion to embrace these persons in his amendment.

Mr. GRUNDY then moved to amend the amendment accordingly. The amendment, as modified, reads—

"And officers and soldiers who served under Generals Wayne, Clarke, Harmar, Hamtramck, and St. Clair, in the Northwestern Territory, and in the Indian wars, after the revolution."

Mr. BENTON repeated the history of the services of General Clarke, and, as the hour had expired for morning business, moved to lay the bill on the table; carried in the affirmative—yeas 25.

On motion of Mr. FORSYTH, it was

Resolved, That the President be requested to communicate with the Senate all the instructions given by this Government to our Ministers to Great Britain; and all the correspondence of our Ministers on the subject of the colonial and West India trade, since the third of March, 1825, not heretofore communicated, so far as the public interest will, in his judgment, permit.

WEDNESDAY, April 11.

Revolutionary Pensions.

Mr. FOOT moved that the Senate proceed to the consideration of the bill supplementary to the act for the relief of the surviving officers and soldiers of the army of the revolution. He stated that he was yesterday appealed to by an old soldier, who begged to know if Congress was about to pass any bill for the relief of those who had performed revolutionary services. If not, he said, he hoped they would pass a bill to hang all this class of men, and relieve them from their misery at once.

The question was carried—yeas 18, nays 12.

The amendment offered by Mr. ROBINSON being under consideration, which read as follows:

"And officers and soldiers who served under Generals Wayne, Clarke, Harmar, Hamtramck, and St. Clair, in the Northwestern Territory, and in the Indian wars, after the revolution"—

Mr. WHITE moved further to amend the amendment, by adding the following words:

"And any other person who was in service under the authority of the United States, against any tribe or nation of Indians, previous to the 1st of January, 1795."

Mr. WHITE was unwilling that all the citizens of the Northwest should be included in the bill, to the exclusion of those of the Southwest. He feared that the Senate would get off from the true principle. If the object of pensioning is to provide for those who are disabled, or who are in circumstances too indigent to permit them to provide for themselves, his amendment would not violate this principle. But if the Senate are to abandon this ground, it was but just that all sections of the country should share alike.

Mr. FRELINGHUYSEN expressed his apprehension that the bill, thus saddled down with amendments, might be destroyed, and that this amendment of the gentleman from Tennessee was offered in no spirit of friendship for the bill. It was impossible, too, to resist these amendments. No one pretended to doubt the meritorious services of the persons included in these amendments. But he had always understood that it was found necessary to adopt a principle of discrimination; and if no sufficient reason existed for this discrimination, the bill ought to be made still more extensive than it is. The gentleman from Tennessee (Mr. GRUNDY) had inquired the other day, why the bill stopped with the revolutionary war. It stopped there because it was the termination of that war; because it was the revolution; and because they who fought to accomplish that glorious event, could not properly be classed with the men in 1795, who were fighting for a certain pay. The men of the revolution contended for every thing that was dear to them—home, hearth, and freedom. They fought for a Government; they fought for their social rights; and they achieved every thing by their own toils and their own blood. The discrimination is as broad as daylight can make it, or as between any two classes of soldiers; the one fighting for a sure and daily consideration, and the other for Government and social intercourse. For whom has the bill made provision? For those who are emphatically "revolutionary pensioners." The militia had carried on everywhere a partisan war, with quite as much loss of property and blood; and it had been a subject of frequent inquiry why the militia were not all placed on the same footing with those provided for by the bill. Gentlemen from most of the States have been instructed to see justice, though late, done to this class of soldiers, who had been engaged in a contest for freedom, such as was never witnessed in the world before. If these men can show that they have rendered revolutionary services, let them do so. But if the bill is to be so extended as to reward all, why should not those who were at New Orleans, at Tippecanoe, at Bridgewater, and at many other places, be included? It cannot be done. In order to be consistent in its legislation, the Senate must reject all these amendments, and

confine the provisions of the bill to revolutionary services. With these views, he would be compelled to vote against all these amendments.

Mr. GRUNDY admitted that the rejection of the amendment would make the legislation of the Senate more consistent than their adoption. A portion of the troops embraced in the amendment of his colleague, were engaged in revolutionary service. And what difference, he asked, could there be between those engaged in the revolutionary war on this side the mountains, and those similarly engaged on the other side? They who were engaged on this side were contending against the British soldiers, while those on the other were fighting against the Indian allies of Great Britain. He stated it to be his intention to vote for this amendment, and for the whole amendment, if this should be adopted.

Mr. SMITH said he should vote against the amendment, and, afterwards, against the whole bill. There was a difference between the service in the East and that in the West, which operated in his mind against the amendment. When Congress offered half pay for life, the Eastern members opposed the measure, on the ground of the impolicy of introducing a system of pensioning. It was then proposed to give five years' full pay to the officers in lieu of half pay for life, and thus to avoid pensions. Now, the ground seems to be completely changed. The gentleman from Tennessee, behind him, (Mr. GRUNDY,) seemed to have fallen into an error, when he set up claims for one particular part of the Union. The Eastern soldiers had turned out and fought as bravely as the militia of the West. But the fact was, that there had been but very few militia called out in the East after 1778; and the Southern war was fought after that period. The militia in that part of the Union were then called out in great numbers, so that both sides of the mountains were about on a par.

In Maryland, the militia were called out in 1777, and but few were called afterwards in the East. In New York, the Connecticut troops did service. After that time, there was comparatively peace on this side the mountains. But the Southern militia were afterwards called out, and constituted the main force of that section of country. He was opposed to the bill in principle. If the amendments were adopted, he could see no good reason why the soldiers of the last war should not be included. There were few who came out of that service, during the war, who did not leave it in a state of poverty, having been compelled to look to their own means for their support. But it was not so with those who came out after the war. He was of the opinion that the Eastern men acted correctly in putting a stop to pensions. If these propositions were to be carried out, the bill would empty the Treasury. There was a plan, when he came into Congress, to pension for three years, giving equal to half pay, which would have caused an expenditure of about $500,000 a year. It was raised in the House to eight dollars a day, and was so changed as to contemplate an annual expenditure of two millions. It was always the case that, when there was a sparse Treasury, Congress became suddenly and rigidly economical; but when there was plenty of money in the Treasury, every one is ready for a prodigal expenditure. This bill would lead to a heavy expenditure, not for one year only, but for every year. He had gone into the war with nine thousand pounds of his own money, and, when he came out, he had nothing.

Mr. WHITE said that his friend from New Jersey was right in the supposition that he (Mr. W.) had not offered his amendment with any view to impede the bill. His object was, if the bill was to pass, to make its operation just and equal, as regards all portions of the country. If the amendment he had offered were adopted, he should not be any more disposed to vote for the bill. He believed that the bill now was, *in toto*, false in principle; but, although wrong, if it was to pass, he would carry out the principle so as to make it apply to all—to the militia of the West as well as to all others. It was not a correct supposition that this amendment was founded on a principle distinct from that of the bill.

Mr. BUCKNER thought the amendment went too far. He was not quite prepared to say that he would not vote for the bill in its original shape, but he could not help saying that he thought the whole system was wrong. He was not disposed to adopt a pension system beyond those who had been injured in the service of their country. Any thing beyond that, he considered to be bad policy. But as the provisions of the law have been extended, in some degree, beyond this principle, he saw no sufficient reason why this principle or good feeling should not be extended to the militia of that period.

On motion of Mr. JOHNSTON, fifteen hundred extra copies of the report of the Select Committee on the apportionment bill were ordered to be printed.

THURSDAY, April 12.

Appropriation Bill.

The Senate resumed, in Committee of the Whole, the consideration of the bill making appropriations for the service of the United States for the year 1832.

Extra Compensation to the Territorial Judge Doty.

Mr. SMITH then moved, after reading a letter from the Secretary of War, an amendment, to the following effect:

"For special services performed by J. L. Doty, Esq., for services and expenses in holding a court for the trial of Winnebago Indians at Prairie du Chien, $582 50.

The amendment was resisted, on the ground that the services were within the proper line of Judge Doty's judicial duty, and that he was no more entitled to extra pay than he would be for his tavern expenses and travelling to any court in his immediate district. On the other hand, the supporters of the amendment insisted that the Judge was not bound to go to Prairie du Chien, and that, being subjected to extraordinary expenses in the performance of this duty, which was enjoined on him by the War Department, he was entitled to extra pay.

The amendment was negatived.

Mission to Guatemala.

Mr. CLAY then rose to ask the attention of the Senate to an appropriation proposed for the diplomatic service, which he deemed to be wholly unnecessary. It was for the outfit and salary of a chargé d'affaires, at Guatemala. On a former occasion he had stated to the Senate his belief that the public service did not require us to be represented at that Government. A chargé had been nominated during the present session; no discussion had taken place on the nomination; and he (Mr. C.) being absent from his seat at the time, had no opportunity of making such explanations as he believed, if made, would have prevented the confirmation of the appointment. The agent, however, had not left the United States, and it was not now too late to correct the evil. With respect to the chargé himself, he believed no objection could be made; the gentleman would do quite as well as many others who had been appointed—stood in some sort of family relationship to him, and had been particularly distinguished by his zeal in the cause of the present Administration. The gentleman, moreover, resided in the same town with himself, and had been a candidate to represent his district in the present Congress, in which contest he had been beaten some ten or fifteen hundred votes. That, however, formed no sort of objection to him: the only question was, the office that had been conferred on him was not needed for the public service. On this subject he felt somewhat solicitous, because the office was one of those which the last Administration proposed to retrench; and if the present Administration did not mean to redeem the pledges of retrenchment and reform that brought them into office, it was to be hoped they would leave undisturbed those that had been contemplated by the last.

Mr. TAZEWELL found himself very much in the situation of the Senator from Maryland. He felt constrained to vote for the appropriation to pay the salary, as the Senate, by its own act, had created the office which it was attempted, by a side-blow, to lop off. The Senate was not at liberty to refuse the appropriation for an office its own vote had assisted in establishing within the present session. How far would the gentleman from Kentucky carry out his principle? Would he apply it, if, in his opinion, necessary, to the salaries of officers created by law? And yet this would be the effect, if the motion of that gentleman prevailed. In the present case, the President had nominated, the Senate had confirmed, thereby creating the office, and the House of Representatives, acting on this creation of office, had sent to the Senate an appropriation to pay the salary which it was then proposed to strike out. Mr. T. could not consent to sanction a principle of this sort. When the nomination was before the Senate, he entertained the same view with regard to it as expressed by the Senator from Kentucky; he could not see any reason for sending a Minister to this Government, if a Government it was at all. But, inasmuch as there had been a Minister there for many years previous, and not a single suggestion was made before the committee as to the inutility of the mission, he did not deem it necessary to call upon the Executive for additional information.

Mr. HOLMES expressed himself as much gratified that his old-fashioned sentiments had been so well sustained by the chairman of the Committee on Foreign Relations, (Mr. TAZEWELL.) He should begin to think himself a very correct and consistent politician. For example, when the Panama mission was under consideration, he thought it inexpedient, and voted in favor of the resolutions presented by the Committee on Foreign Relations, in opposition to the measure. When the only affirmative proposition was on the table, the creation of the Ministers, he voted, with the chairman of that committee, against the measure; but when the bill came from the House of Representatives, after the officers had been created, making an appropriation for their salaries, he (Mr. H.) gave the only consistent vote—he voted to pay them. Then, like the Senator from Virginia on the present occasion, he did not feel himself at liberty to refuse the salaries after the Senate had created the offices; and, now, he must inform the Senator from Kentucky that he should vote on the same principle.

Mr. TAZEWELL observed that nothing in his course could authorize a comparison between him and the Senator from Maine, either as regarded consistency or any thing else. The remarks of that gentleman, however, called for a reply on another point. There was a great difference between the Panama mission and the present one. If the gentleman from Maine would turn to the report of the Committee on Foreign Relations, made on the occasion referred to, he would find that the main difficulty urged in the report was the unconstitutionality of the mission. The committee believed that Congress possessed no authority to send Ministers to a congress of nations. Differing, therefore, from a majority of the Senate, he had voted against the measure, in all its stages; first, against the creation of the offices. The House of Representatives, concurring with the majority, made the appropriation to pay the

salaries of the Ministers that had been appointed; and he, for one, believing that the Executive and Senate had no constitutional right to institute the mission, voted against it. That was one difference between the Panama mission and the present one; for no one, for a moment, would suppose that the President and Senate had not a right to send a Minister to Central America.

Mr. BENTON rose to make some observations on the main point of objection—the alleged insignificancy of the trade between the United States and Guatemala. It was alleged that this commerce was too inconsiderable to merit the mission of a chargé d'affaires; that the profits, in fact, of the whole commerce, would not defray the expenses of the mission. This, Mr. B. was very certain, was a great mistake. He held in his hand the document of the commerce and navigation of the United States for the year 1830—the last that was printed. Mr. B. then read from the document, to show that the whole imports from Guatemala were $302,820; and of this amount, about $140,000 consisted of gold and silver coin and bullion. The domestic exports were $138,000, which he said were four times as great as the domestic exports to Russia, and eight times as great as they were to Prussia. The foreign exports sent from the United States were $110,000; so that, if there was any thing in the balance of trade, here was a balance of about $50,000 in favor of the United States. Mr. B. thought this commerce was well worth attending to now; and as Guatemala was a young and a growing country, it must soon be much more considerable, if cherished and preserved. Mr. B. would, therefore, cordially vote in favor of the appropriation for defraying the expenses of the mission.

Mr. BIBB made a few observations in opposition to the motion, expressing his hope that what had been done in this case by the President, with the advice and consent of the Senate, would not be reversed in this manner. He considered the matter as now placed beyond the control of the Senate. The right of appointing to foreign missions, and of receiving foreign Ministers, he viewed as an exclusive right appertaining to the President. In the present instance, the Senate had confirmed the nomination, and the other House having appropriated the means, it must be palpable that the Senate could not do otherwise than conform to circumstances.

Mr. CHAMBERS gave the reasons which would compel him to vote against the motion. He regretted that it had been made at this time. If the statements of the Senator had been made at another time, they would doubtless have influenced his vote, and probably the nomination would have met with a different fate.

Mr. FORSYTH spoke briefly in opposition to the motion. He was of the opinion that to refuse the appropriation so immediately after confirming the nomination, would expose the Senate to some censure. It was said that this mission was unnecessary. The nomination was made to replace the Minister appointed last session. There had been plenty of time to inquire into the necessity. Why had there been no call for information, after what the President had stated on the subject in his annual Message? [Here Mr. F. read an extract from the Message on the subject of our relations with Guatemala.] He thought the mission was necessary, and that the appropriation ought not to be refused, without a sufficient reason being given.

Mr. KNIGHT, with a view to give time to make some further examination, moved that the Senate now adjourn—yeas 18, nays 21.

The question was then taken on Mr. CLAY's motion, to strike out the appropriation, and decided in the negative, as follows:

YEAS.—Messrs. Clay, Clayton, Ewing, Foot, Johnston, Naudain, Robbins, Seymour—8.

NAYS.—Messrs. Bell, Benton, Bibb, Brown, Buckner, Chambers, Dallas, Dickerson, Dudley, Forsyth, Frelinghuysen, Grundy, Hendricks, Hill, Kane, King, Knight, Mangum, Marcy, Miller, Prentiss, Robinson, Smith, Tazewell, Tipton, Tomlinson, Troup, Tyler, White, Wilkins—30.

FRIDAY, April 13.

Mission to Belgium.

Mr. CLAY then moved to amend the bill by striking out so much as provides for a Minister to Belgium.

He expressed his perfect belief that the present Administration and their friends were anxious to fulfil all the pledges of reform which they had given; and he was now about to afford them an opportunity in the amendment he had proposed. Here was a proposition to create a mission to a new power. Had it been a republic instead of a monarchy, he might perhaps have felt a little more willingness to make the appropriation. As to the gentleman who was likely to receive the appointment, if made, he disclaimed any unkind feelings. He regarded him as a gentleman well qualified to do honor to the country; and if the mission were to be created, he would vote with pleasure for his appointment. But this was a new court. The ink was not dry, the monarch hardly on the throne, the sceptre scarcely in his hand. He had not even deigned to send any one to this country. He would himself prefer to send a Minister to the Hanseatic Republic, than to this upstart king of Belgium, who was not seated on the throne by the will of the people, but by the act of a few sovereigns. If this mission were to be sustained on the ground that the value of the trade required it, for the same reason one might be sent to the Pope, to Austria, and all the other powers.

He hoped that, as the Senate had not yet passed on this mission, there would be no ob-

jection to the motion. He was aware that circumstances existed which would prevent him from going into details, which were before the Senate in another character, and he would therefore refrain. He reminded the Senate of the different situation of this mission, to that of the chargé to Guatemala. In one case the officer had been confirmed, but in the other the mission had to be created.

Mr. HAYNE expressed his readiness to redeem any pledge which he had given on the subject of reform and retrenchment; and if all the pledges should not be redeemed, the fault should not rest with him; and in doing this, he was disposed to keep in view the celebrated report of the committee of which the Senator from Missouri was the chairman, on the reduction of Executive patronage.

But when the gentleman from Kentucky applied the pledge to this particular case, he must first be satisfied that it is a case which comes within the sphere of that pledge. If this mission could be shown to be unnecessary, he would be willing to vote against it; or if it could be shown that it could be satisfied out of the contingent fund, he might still go against it. His vote, on the last question, was given on the ground, as taken by the chairman of the Committee on Foreign Relations, that the contingent fund was applicable to the particular object of appropriation. Here, however, there was no contingency. A nomination had been made. The appointment of a Minister was already decided on. If the President and Congress should be of the opinion that the mission is necessary, the appropriation would be a necessary consequence. It came, then, to this question, whether the mission was necessary or not. As the subject was pending before the Senate, in their executive character, he felt himself greatly embarrassed in discussing the subject; and restricted as he was, he could only generally express a few hints. This was a case in which there had been a division of a kingdom into two kingdoms, and it was important that this country should be represented in both, in order to prevent jealousies, and to protect our interests.

Mr. FORSYTH said he did not know, from any information in his possession, that the mission was necessary. On the contrary, he might be rather led to a different conclusion. But he understood that other information had been received, which would prove its necessity, and he should therefore vote for the appropriation. He then corrected what he considered to be a mistake of the chairman of the Committee on Foreign Relations relative to the contingent fund. It had been applied for outfits, but improperly so. The contingent fund was for the expenses of intercourse, in the shape of presents, officers on public days, servants of foreign Ministers, postages, newspapers, the collection of information, stationery and books, and expenses attendant on moving about with the court. The fund is under the immediate control of the President; he decides on its application for himself, and is responsible to no one. He has at times used this fund to pay outfits, when he had no other money. The expenses of this mission might as properly be paid out of this fund, as those of the outfit to France.

Mr. CLAY expressed pleasure to hear that the gentleman from South Carolina was ready to redeem his pledges; but if he did so, he would assure that gentleman that he would find himself in a lean minority. There were two ways of redeeming this pledge: one, by paring down existing expenses; and the other, by preventing new methods of expenditure. He knew not which of these modes the gentleman would select.

Mr. HAYNE. Both.

Mr. CLAY went on to express his embarrassment in touching this subject of the mission, in the peculiar position in which the Senate was placed. Were he at liberty, he could adduce reasons, perhaps, as strong, to show that this mission was unnecessary, as the gentleman from South Carolina might be able to bring forward to prove the contrary; and, perhaps, the weight of testimony might be with him. On that point he might venture to refer to the chairman of the Committee on Foreign Relations. But he was not desirous to strike out an appropriation altogether. His object was to strike it out of this bill; and if the nomination should, on an examination of all the subject, be confirmed, it might be inserted in another bill, and there would be no lack of opportunity, as the Senate would have enough of appropriation bills before the end of the session.

Mr. MILLER thought that a Minister ought to be sent to Belgium, on the recommendation of the President, unless good reason could be shown to the contrary. We had sent Ministers to South America while that country was in a state of convulsion; and Ministers were sent to us while we were struggling for our freedom. He wished the matter to be, at once, put to rest; and if a full discussion were desired, it was easy, at once, to go into executive session, act upon the nomination, and then return into legislative session, and pass or reject the appropriation. He was no anti-mason, but he was not willing to have his mouth muzzled, and to be compelled to act under this ban of secrecy. He was for passing on the matter now. He expressed a hope that the Senate did not mean to sit here through the dog days; and if they did not, there would be no chance of reinstating the appropriation, if once stricken out. He concluded with an allusion to the twenty-two thousand five hundred dollars paid for a Minister to England, who was worth nothing, as an item more deserving of reprobation than this item.

Mr. WEBSTER made some brief remarks. He had not understood the Senator from Kentucky as making any formal motion, and he hoped that he had not done so. He thought there was no precedent for this inexpedient

mode of bringing the Belgian mission before the Senate. We had been called upon, in conjoint action with the other House, to act on the same subject, in the same manner, and involving the same principles. He felt the same here as he would have felt had he been in the other House. He would have voted for this appropriation in the other House, and he should do so here. The appropriation had been asked for by the Executive, and he was willing to give it; and the giving it would have no effect on his vote when he should come to act on the nomination. He should not vote for the nomination any the sooner because the expenses were provided for.

Mr. TAZEWELL expressed a different view, considering that granting the appropriation created the office. The whole difficulty, in his opinion, arose out of the House of Representatives doing what they had no right to do, by appropriating money for an office which had not yet been created—imagining that some such office was about to be created. If the Senate appoint the Minister, the appropriation must be made. But while the matter is in pendency, whether the mission shall be created or not, will the Senate create the mission by appropriation? Should the nomination be confirmed, he would assuredly vote for the appropriation; but he could not so vote at this moment.

The Senate then adjourned.

MONDAY, April 16.

Public Lands.

Mr. CLAY, from the Committee on Manufactures, to which the subject had been referred by the Senate, made a report in regard to the distribution of the proceeds of the sales of the public lands, accompanied by a bill providing therefor.

The bill was read the first time; and the question being on ordering it to a second reading,

Mr. BENTON said: He would not trouble himself with the details of error and injustice which this report contained. Massachusetts and Maine are placed on an equality with Virginia, who had made such a generous cession of territory. Massachusetts had retained thirty thousand square miles, and, after giving a portion of these lands to Maine, had disposed of the rest at fifteen and twenty cents the acre.

The whole of this report he characterized as proceeding on the principle of money—money—money. Money must be wrung from the soil, to prepare against the contingency of a new war. Instead of looking to money for this provision, regard should be had to population, to an increase of man—free man, as the best resource in such a contingency. He who most efficiently defends the country, was not the manufacturer, but the son of the man who tills the soil. The present proposition he viewed as one to take money from the hands of the people. The principle which pervaded it was that the revenue must be kept up, if the money were thrown into the Potomac. There was to be no reduction in the price of the soil, although originally it belonged to other owners, and notwithstanding a great portion is now returned by the receivers as not worth more than five cents the acre. He referred the Senate to the mode in which the wild lands were disposed of in Europe, for the purposes of settlement and cultivation; and asserted that such was the practice in the new world. He adverted to the proclamation of the King of Persia, offering lands to settlers, and to the practice of the Roman republic in the division of the lands. The Senate, he suggested, should adopt the practice in the colony of Liberia, where every colored settler is allowed to draw for a town lot. He was a friend to humanity, but he was not disposed to cherish the black, and sacrifice the white man. Because there were found in the seven new States one hundred and forty thousand persons borne on the tax list, who were not land owners, they are stigmatized as deficient in industry. This he denounced as a wrong. The lands in the new States were not worth the price at which they are now held by the Government. Receivers had said that there were millions of acres not worth five cents an acre. Every thing was worth precisely what it would fetch. The story of speculators had been brought forward again. The objection in this form came from the speculators themselves, from those who wanted to sell their land. The fact was, the money must be brought from the new States, to be expended elsewhere. Every thing had been taxed in the West, and taken away to support the Federal Government. The principle of federal numbers had taken away every dollar from the South and West, and carried them to the Northeast. Instead of the federal numbers, the expenditure ought to be regulated by the size of the States.

He proposed to amend the motion for a second reading, by substituting a reference of the bill to the Committee on Public Lands, with instructions to report a bill to reduce the price of public lands, &c.

The CHAIR decided that this motion would not be in order until after the second reading.

Mr. BENTON expressed a hope that the bill would never reach a second reading. He wished to know if a motion to reject the bill would be necessary.

The CHAIR replied in the negative.

Mr. SMITH said he had waived his motion to take up the appropriation bill, in a spirit of comity, not expecting this prolonged debate. He would now move to lay the report and bill on the table.

The yeas and nays being desired and ordered, the question was put, and decided—yeas 24, nays 19.

So the report and bill were laid on the table.

Mr. CLAY then moved the printing of the documents, and that three thousand extra copies be printed.

TUESDAY, April 17.

Claim Agencies in London and Paris.

Mr. CLAY rose, and, without making any specific motion, called the attention of the Senate to the clause in the bill making appropriations for two agents for claims, residing in London and Paris. Both these agencies were mere sinecures. As well as his recollection would serve, although he did not pretend to perfect accuracy, they originated in this manner: During the operation of the decrees of Bonaparte, and the Orders in Council of Great Britain, a large mass of claims, growing out of those measures, had accumulated, which were so numerous as to render it impossible for our Ministers to attend to them. In order to aid the Ministers, either during the Administration of Mr. Jefferson, or at an early period in Mr. Madison's Administration, these agencies sprang up. He believed that they were appointments unauthorized by any particular law, and had never been submitted for the concurrence of the Senate. As to England, we have no claims on her since the treaty of Ghent; none to the settlement of which the Minister is not fully competent. Our claims on England were cancelled by that treaty. There had been some necessity for the continuance of the agent in Paris until Mr. Rives concluded the recent treaty with that nation, which has extinguished the whole. This has so reduced the business, that our Minister in Paris can easily attend to all the claims which may arise, without interfering with his ordinary business. It seemed to him, therefore, that the appropriation was useless. Should the Senate concur in this view, some gentleman might move to strike out the clause. He was not certain that these agencies were not given to our consuls in these cities, who were both worthy men. If this had appeared in the estimates, he would have been satisfied. He thought, however, that the true course would be to allow salaries to these consuls, and not to give them these agencies.

Mr. FORSYTH stated that originally there were three of these agencies. There was one in Madrid, which had been dropped some years since. The agency in London was useless, but the fees of the consul were so inconsiderable, so totally inadequate to the support of an individual, that the Government had found it necessary to allow all that could be allowed to make up the deficiency; otherwise, the office could only be filled by a man of fortune. As to the consul at Paris, his services would be required for the present year, as he has the papers in his possession, to lend his aid to the settlement of the claims. After this year, he might be dispensed with.

Here the conversation dropped.

Contingent Expenses of the Judiciary.

The clause making an appropriation for the contingent expenses of the Judiciary Department, which had been amended in the committee, by increasing the appropriation from $190,000 to $250,000, having been read,

Some debate took place on the question of concurring in the amendment. It was opposed, on the ground that the estimates were not sufficiently explicit, and that the evidence was insufficient.

On the other hand, the impracticability of making the estimates exactly square with the sums which might be required, was urged. It was stated that the contingencies of this department were always fluctuating, and depended on circumstances not to be foreseen or controlled.

The question was decided as follows:

YEAS.—Messrs. Benton, Bibb, Buckner, Dallas, Dudley, Grundy, Hendricks, Kane, King, Mangum, Marcy, Robinson, Smith, Tipton, White—15.

NAYS.—Messrs. Bell, Chambers, Clay, Clayton, Ewing, Foot, Forsyth, Hayne, Hill, Johnston, Miller, Moore, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Sprague, Tazewell, Tomlinson, Tyler, Waggaman, Webster, Wilkins—24.

So the Senate refused to concur in the amendment.

WEDNESDAY, April 18.

Vaccination of Indians.

On motion of Mr. WHITE, the Senate then proceeded to consider the bill to provide for extending the benefits of vaccination among the Indians. The question was on the third reading of the bill. This bill led to a discussion, which consumed the whole of the day.

Mr. BUCKNER opposed the bill because it was, in his view, a bill more for the benefit of Indian agents and the other parties designated in the bill, than for the advantage of the Indians. He considered the experiment which the bill authorized as equally useless and dangerous, and one to which force alone would compel the Indians to submit. He questioned also the constitutional power of the Congress to take this step, any more than to make an appropriation to check the progress of the plague in Algiers. He contended that the money asked for would be insufficient, and that Congress would be subjected to fresh calls. He asked for the yeas and nays on the third reading of the bill, and they were ordered.

The bill was further opposed in its original form by Mr. EWING and others, on the ground that it gave to the President an unrestricted right to appoint agents, and to extend his patronage; that it opened a door to fraud on the Indians, and on the Government; and that it was more likely to convert the Indians into enemies than friends.

On the other hand, it was contended by Mr. WHITE and others that this was a measure called for by humanity and expediency; the gloomy picture of the miserable condition of the Indians who were afflicted with the small pox, dying in such numbers that the dead lay unburied, from a printed document in possession of the Senate.

Mr. SPRAGUE argued that the bill provided against any fraudulent practices, by authorizing the employment of regular practitioners, who would not stoop to the practice of frauds.

In the course of the debate, an incidental discussion arose in consequence of a reference made by Mr. FOOT to an item in one of the documents just laid on the table, from which it appeared that certain sums, amounting to $16,000, had been paid to John H. Eaton and John Coffee, as commissioners to treat with the Choctaw and Chickasaw Indians in 1830 and 1831. This clause was at first viewed by Mr. HAYNE and Mr. FOOT as evidence that these individuals had received large emoluments from the Treasury as commissioners, while Mr. Eaton was receiving a salary, as Secretary of War. On a little examination, however, it appeared that this sum stated was the amount paid to meet the expenses of making the treaty, and that Mr. Eaton had declined receiving any compensation as commissioner.

Some remarks were also made bearing hard on the President for having appointed to office men who had been rejected by the Senate. It appeared by the printed documents that Wharton Rector, Mr. Stambaugh, and Mr. Gardiner, all of whom had been rejected by the Senate, had been appointed by the President, subsequently, to offices of trust; and that the expenditure of large sums had been committed to them. This practice of selecting men for office who had been rejected by the Senate, was denounced in emphatic terms by Mr. HAYNE, Mr. SPRAGUE, and others, and defended by Mr. FORSYTH and others.

The bill having been ordered to a third reading, Mr. EWING moved to recommit it, with instructions to strike out the exceptionable parts of the bill. As it was urged, however, by Mr. WHITE, that the bill, unless passed immediately, would not effect the humane object which it had in view, Mr. EWING withdrew his proposition, to enable Mr. WHITE to move a reconsideration of the vote by which the bill had been ordered to a third reading, so as to give an opportunity to amend it.

The motion to reconsider having been agreed to, the bill was amended by striking out its second section, modifying the third so as to authorize the calling in of such physicians only as are resident in the vicinity of the Indians, or on the frontier, and by reducing the appropriation from $12,000 to $6,000.

In this form the amendment was ordered to be engrossed, and the bill to be read a third time:

YEAS.—Messrs. Bell, Benton, Chambers, Clay, Dallas, Dudley, Ellis, Ewing, Foot, Forsyth, Frelinghuysen, Grundy, Hendricks, Hill, Johnston, Kane, King, Marcy, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tomlinson, Webster, White, Wilkins—30.

NAYS.—Messrs. Bibb, Buckner, Dickerson, Hayne, Mangum, Miller, Moore, Tazewell, Tipton, Tyler, Waggaman—11.

Judiciaary Expenses.

Mr. FORSYTH moved to reconsider the vote by which the Senate yesterday refused to concur with the Committee of the Whole, in the amendment to the general appropriation bill, to strike out the sum of $190,000 for the contingencies of the Judicial Department, and insert $200,000.

Having made the motion, Mr. FORSYTH moved to lay it on the table, in order that it might be taken up when the appropriation bill should again be before the Senate.

THURSDAY, April 19.

Appropriation Bill.

On motion of Mr. FORSYTH, the Senate proceeded to the general appropriation bill.

General Houston's Trial for Breach of Privilege in Committing an Assault and Battery on a Member of the House of Representatives.

The Clerk of the House delivered a message from the House, requesting of the Senate that leave be given to four of the members of this body—FELIX GRUNDY, THOMAS EWING, ALEXANDER BUCKNER, and JOHN TIPTON, to attend the House of Representatives for the purpose of giving testimony on the trial of Samuel Houston, now pending before the House for a breach of privilege.

The Clerk having withdrawn,

Mr. WEBSTER said that, as this was a case of emergency, he would move that the bill be laid on the table; which motion was agreed to.

On motion of Mr. WEBSTER, leave was given to the Senators named to attend the House of Representatives.

Mr. WEBSTER then moved to lay the appropriation bill on the table, as the Senate would probably be indisposed to proceed with the consideration of the bill in the absence of the Senators. He withdrew his motion for a moment, at the request of

Mr. FORSYTH, who begged leave to explain that he had not designed to impute any blame to Congress for their interference as to the navy contracts. But he wished it to be borne in mind that the officer was correct in his interpretation of the laws.

Mr. MANGUM said a few words in opposition to the practice of throwing responsibility on Congress for the extravagance of the Administration. He regarded the whole party as responsible for the acts of their Administration; and he would rather see the man he supported

put down, than protected behind such a shield. The President might interpose his veto. He contended that, for many years past, the tendency of our Government had been to become worse and worse; and if he and the other friends of the Administration were to shelter themselves under the idea that Congress was responsible, it was the introduction of very dangerous principles. He thought this remark due to the country which he represented. He must have shut his eyes close and long, not to have seen that the Government was getting worse.

Mr. FORSYTH asked whether the Administration were to be made responsible for the multiplication of pensions. Should the President veto the law, the country would immediately ring, from one end to the other, with the cruelty and injustice of which he had been guilty in filching the little pittance from these unfortunate persons. Every Senator knew the use which had been made, to the injury of the President, of his former veto. It would be found that the Administration were in a minority in some of the cases. Mr. F. moved to lay the bill on the table; which motion was carried in the affirmative.

FRIDAY, April 20.

Mr. GRUNDY stated that the Senators who had yesterday obtained leave of absence to attend the trial of General Houston, had received permission from the House to return to the Senate, until they should be notified that their testimony was about to be taken.

Appropriation Bill—Expenses of the Government.

The Senate then resumed the consideration of the bill making appropriations for the support of Government for the year 1832—the question being on concurring with the Committee of the Whole in striking out the appropriation for the outfit of a Minister to France.

Mr. CHAMBERS regretted that the Senate had adjourned yesterday at the moment he had risen. His apology for saying a word on this subject was found in the example of the chairman of the Committee on Finance. That Senator had deplored, in very strong terms, the continuance of a debate which must delay the passage of this bill, so necessary to meet the most pressing wants of the Government. We had all yielded to his pointed remonstrance, and the bill was going on without a word of debate, when, on calling it up yesterday, the chairman, without the slightest provocation, rose in his place, and in great excitement delivered a long and animated argument to prove the extravagance of the last Administration and the economy of this.

[Mr. SMITH here remarked that he did not attempt to show extravagance in the late Administration. He had no such object.]

Be it so, said Mr. C. Let the Senator be considered as having no such object as to criminate the last Administration, and solely to design the vindication of the present Administration from the charges preferred against it. He has interrupted the regular progress of this highly important bill to present this labored vindication.

[Mr. SMITH here said he had not labored.]

Then, said Mr. C., it must be conceded that the Senator has arrived at results, and exhibited estimates and calculations, without labor; which certainly no other member can produce without an examination, and with labor, too, amongst the documents and State papers. But whether for one object or another—whether with labor or without—his colleague, disregarding, in his own practice, the strong admonition by which he had proposed to regulate that of others, had challenged this debate. It was not proper to allow such a discussion to end where it was. Mr. C. said that he could not consent to permit an argument which he deemed so fallacious, to go out to the public without commentary. Sir, said Mr. C., the issue tendered is not the true one. Let the people know how this matter stands, and they will be at no loss to find a right verdict, and give a correct judgment. What is the true state of the case? The last Administration, pursuing with honest purpose, and by accustomed means, the best interests of this great and growing nation, were cultivating all the sources of national prosperity, and faithfully executing the legislative will, by a prudent application of the resources of the country, which the representatives of the people chose to place at their disposal. The public debt was in a course of rapid extinguishment, the defences of the country were extended, the facilities of intercommunication promoted, the great branches of public prosperity nurtured, and all our relations at home and abroad presenting occasion for grateful reflection. This was the condition of things, when the last Administration found itself assailed by that political party which rose up to prostrate it, and finally succeeded in ejecting it from office.

Here, sir, said Mr. C., (holding up the book containing the retrenchment report,) here is the text from which that party drew its doctrines; this is the confession of faith which that party subscribed; which they proclaimed in six thousand copies of this report from the House of Representatives, and three thousand from the Senate; which they published in every city, town, village, and cross-road, in the Union, and reverberated by every partisan in the country. Now, sir, this confession of faith must be the criterion by which this party is to be tried. The present President was unanimously elected as the organ who was to execute all their projects. He was not slow to assume the responsibility imposed upon him. In his opening Message, he made himself sponsor for the whole party and its creed, when he declared that "retrenchment and reform were inscribed on the roll of Executive duties in characters too legible to be misunderstood."

The true issue, then, is not whether this Administration is more extravagant than the last. If it be as much so, this text book will denounce it as unfit to possess the confidence of the people. It would be no difficult proposition, he believed, in a proper place, to establish the fact that it had expended larger sums than the former Administration, to effect precisely similar objects; but he denied the authority of the adversary party to make this the question. If they will frankly and fully concede that all their boasted pledges of "reform and retrenchment" have been violated—that, after effecting the purpose for which they were engendered, the expulsion from office of their political adversaries, they are forgotten, or admitted to be hollow, empty, unmeaning sound, without substance—why, then, we are prepared to meet any other issue that may be tendered. Sir, if this concession is not made, it is due to an abused community, it is due to those who, with honest expectation of a fair and full execution of these pledges, have raised to power those who made them to prove, as your State papers and records will prove, that every promise and profession then made is not only broken but forgotten, and that now resort is had to the lame and impotent plea that they who made them are not worse than those whom they denounced. To the book, then. The first item to be noticed is the number of clerks and officers in the Executive offices. The book—the creed, denounces these Executive Departments as receptacles for idlers and superannuated old men—"one-third" more in number than the business of the Government required, and some of them "invalid pensioners," absolutely enjoying "sinecures;" this whole Augean stable was to be cleansed and purified. Well, sir, how has this practice of this Administration conformed to this profession? Are the clerks lessened in number? No, sir, not only not diminished, but actually increased. Are their salaries lessened? No, sir, not a dollar; on the contrary, some of them are increased by this bill now under discussion. Some of the old and faithful servants who had passed their lives in these offices, whose advancing age and fixed habits had unfitted them for other employments, have been removed, it is true. Yes, sir, many have been thrown upon the world penniless as they were blameless, with a heartless disregard of their misery and havoc inflicted upon themselves, their fortunes, their helpless, dependent families, or even their well-earned reputation. But why? was it to promote real reform, or to advance the public good? No, it was to let in a host of hungry expectants to devour with greedy appetite their share of the people's substance—openly, publicly announced as the "spoils of victory." Yes, sir, your public offices, created for the good of the people, and the only purpose of which should be to effect that good, and advance the general welfare, are boldly elsewhere as here on this floor denominated "spoils" to be "shared" by "victors." Was capacity, was fidelity, was patriotism, or useful service to the nation, made the criterion of merit, in selecting them? Not at all. Instead of capacity to discharge the duties of office, the candidate urged capacity to obtain votes; instead of fidelity in the performance of official trust, he boasted active zeal in propagating his political tenets; in place of patriotic devotion to the country, or useful service to the nation, he claimed devotion and efficient service to his party, noisy, indiscriminate admiration of the "Hero of New Orleans," and unsparing, reckless condemnation of every man and every measure that opposed his pretensions. These, and often these alone, were the successful grounds of claim to promotion; and the degree of elevation, the "share of the spoils," was proportionate to the zeal and fury which the partisan had evinced in the glorification of his idol. Many of those "victors" were so utterly destitute of other qualifications essentially necessary, that their own political friends, yielding to the strong and just popular opinion, were obliged promptly to put them aside; and in some cases the President himself has been compelled to turn them adrift before they had fairly tasted the fruits which they fondly anticipated as their promised "reward."

The book—the articles of faith—charge against the late Administration a wasteful expenditure in the diplomatic department. Their pledge bound them to a retrenchment. How have they redeemed it? Why, sir, by recalling instantly every Minister then abroad, and sending others of their own political tenets, at an immense expense of money, and in some cases at the sacrifice of other high considerations. Was this because the public interest was thereby promoted? Was it because our Ministers were not qualified? Was it because they had evinced a want of competent talent, or of patriotic zeal, in discharging their duty? Not at all. These "spoils" were to be distributed; and with such eager haste did the "victors" claim their "reward," that, in the case of the Colombian Government, General Harrison, whose name and reputation are fondly cherished by the nation, was recalled before he had actually reached his destination, and an active partisan appointed his successor, who is now continued a full Minister, when the confederate Government to which he was accredited is dissolved, and no Government exists bearing even its name. The Chairman of the Finance Committee says that "the services have been commensurate to the expenditures in this Administration." Sir, this is not in the book. The last Administration said the expenditures were honestly and usefully applied, but it did not arrest the cry of "retrenchment and reform." But let one instance illustrate the sort of services which this Administration considers commensurate to large expenditures. A competent, faithful Minister to Russia was recalled. A distinguished successor taken from Virginia

was appointed. Besides his nine thousand dollars' outfit, and nine thousand salary, an immense expense was incurred in sending him out, and returning his predecessor. The "commensurate services" were about ten days' residence in Russia, and the remaining three hundred and fifty-five were passed in another kingdom, at the distance of some thousand miles from the scene of duty.

The book asserts the necessity of "abolishing the contingent fund for missions." It was supposed to be the fruitful source of mischief—controlled solely by the discretion of the Secretary, and altogether unnecessary. Well, sir, how stands the fact in regard to this item? Has it been discontinued? Not at all. This bill appropriates thirty thousand dollars for this fund. Not only is it continued under this "economical" Administration, but an accumulated sum of about one hundred thousand dollars allowed to the late Administration, and not expended by them, has been disbursed, in addition to appropriations made since they came into power. His colleague had used harsh language in reference to the mode of comparison adopted by the Senator from Connecticut, (Mr. FOOT.) It was not his intention to apply towards his colleague any offensive expression; but, after his very warm language on this subject, it was passing strange that he should refer to "appropriations" for "contingent expenses of foreign intercourse," and yet omit the weightier matter of "disbursements;" omit to say one word about the accumulation which the Senator from Kentucky has proved by the public documents. His colleague had also referred to sundry items of "extraordinary expenditures" in our diplomatic concerns during the present Administration; and yet, boasting as he does of a perfect spirit of fairness, he has not pointed out one in the last Administration. Certainly it was for some other reason than that the documents did not show it. Sir, said Mr. C., it is like all other of the large professions of the party who put out this "book." Indeed, the course of debate here is a confession of a total failure to realize the pledge which was held forth and paraded even in the shape of an "inscription on the Executive roll." This executive banner waved high, and caught the fancy and the hopes of thousands by its alluring motto, "retrenchment and reform." Crowds gathered to the standard, and overwhelmed all resistance to the march of those who had unfurled it. Having effected its purpose in gaining the victory, what are its "rewards" to the "country"—to the "whole people?" Favorites and partisans are "rewarded;" but what does the "nation" gain? Why, sir, they are mocked and evaded when they demand a fulfilment of engagements made by this party text, and reassumed by the Executive Message. They are now told "it is not the fault of the Executive, but of Congress, that so large expenditures are disbursed; the President must execute the law, and the law directs the expenditure." The people—the deluded people, will ask if the Congress did not direct the expenditures in Mr. Adams's Administration—if he was not bound to execute the law; and yet it did not prevent the eternal cry of "reform and retrenchment." They may, and probably will, also ask if this said wicked and extravagant Congress had not been brought into being by the same party which elevated the Chief Magistrate; whether, from that time to this, his political friends have not formed a majority in both branches of Congress. Driven by these unwelcome reminiscences, the Administration resorts to this humiliating apology: "Why, we are not more extravagant than our predecessors!" Sir, this plea cannot be sustained, whether issue be taken upon the law or the fact. It does not lie in the mouth of those who heaped unmeasured censure upon the last Administration for waste and extravagance now to erect it into a fair standard by which their own expenditures are to be graduated. But if they could be permitted to shelter themselves under such a defence, the facts will not sustain them. The table exhibited by the Senator from South Carolina, (Mr. HAYNE,) prepared, as he tells us, with great care and accuracy, gives the following sums as the total expenditures, exclusive of payments on account of the public debt:

For 1825	-	-	-	$11,490,459 94
6	-	-	-	13,062,316 27
7	-	-	-	12,653,095 65
8	-	-	-	13,296,041 45
9	-	-	-	12,660,490 62
30	-	-	-	13,229,533 33
31	-	-	-	13,918,708 99

Now, sir, let it be remembered that, in addition to these increased and increasing expenditures, there should be a large allowance for sums which had been refused for that most important matter of internal improvement. A system was regularly and happily progressing under the last Administration, vitally affecting the whole value of the country, calling into useful exercise its faculties for rapid, intimate, and profitable intercommunication, cementing its various and distant portions, binding our whole people in ties of vicinity and consanguinity; a system, to promote which is, in my humble judgment, one of the most imperative as well as one of the most desirable and useful objects for which this Government was organized. How has it fared with this "reforming, retrenchment" Administration. Reformed into a state of non-existence—lost sight of—abandoned—vetoed. Yes, sir, at one sweep, a lighthouse bill, involving an expenditure of half million of dollars, the disbursement of which would have left traces of useful improvement scattered through all parts of the Union for generations to come, was rejected. Your turnpike road bill, your canal bills, rejected. And yet your total expenditures are increased. Are the sums thus refused to useful objects made to swell the

amount of "spoils" and "rewards" distributed to favorites?

Sir, it is to be feared this "inscription on the Executive roll" has ceased to be "legible," or possibly it may have been deposited in some of the retired departments of an Executive officer by one of those who came in as a component part of the "unit cabinet," and that his successor had not yet found the place of its repose. If so, let us still hope that, late as it is, we shall again hear of it. Many considerations and numerous facts invite further discussion; but, in despite of the challenge of the chairman of finance, Mr. C. said he was unwilling to consume more time. He would, however, add one word in regard to one of the cases by which the Senator from Georgia (Mr. FORSYTH) had illustrated the desire of the Executive to retrench, and the practice of Congress to defeat that desire. The other case had been fully disposed of by his friend from Massachusetts, (Mr. WEBSTER,) who was interrupted before he had explained the navy contract for timber. In this case, it was true that Congress had passed a remedial law, and in terms, and in a manner, to imply dissatisfaction at the course of the auditor. What was the case? A contract was made by the navy commissioners for delivering timber at a certain period, and reserving, according to universal usage, ten per cent., to be forfeited if the contract were not executed according to its letter. The contract was faithfully executed in all respects except as to time. To the extension of time, the commissioners made no objection. The service was not injured, nor was any one injured. The navy commissioners, who made the contract, desired to pay the contractor the price of his materials, or appeal to the Secretaries of the Navy and of the Treasury. Both were of opinion it should be paid; but the Fourth Auditor objected, and the President agreed with the auditor that the law enforced the penalty, because a short time had expired, more than the contract allowed.

The contractor brought his case here, and (without a dissentient voice, he believed) his whole price was ordered to be paid. Now, sir, is this the magnanimous exhibition of liberality which becomes a great Government? Is this Administration so hard run, that, while it is continuing this very Fourth Auditor's office, and its accompanying appendages, which the book told us was created for a temporary purpose arising out of the last war, and ought to be abolished; while it is paying eighteen thousand dollars' salary for ten days' services of a Minister; while it is multiplying clerks, and increasing their salaries, that it is compelled to go, for proof of economy, to the petty ten per cent. on a little contract—compelled to enforce the letter of the law, even if it be the letter, to exact the "pound of flesh" against an honest contractor, whose materials they have received, and now have, and intend to use? It is an illustration, not exactly to the purpose intended by the Senator from Georgia, but to show the course of this Administration; and proves, to use the language of the Senator from Missouri, that, "while they are saving at the spigot, they are wasting at the bunghole."

Mr. CLAYTON, of Delaware, said, the clause in the bill under consideration provided thirty-six thousand dollars for outfits of Ministers to Great Britain, France, and Russia, and made no distinction between the missions to those several courts, although, in point of fact, they all stood on different grounds. The outfit for a Minister to Russia was evidently necessary. A vacancy in the office did exist at the commencement of the session, however difficult it may be to say when it commenced; for the Minister to that Government, although he received his twenty-two thousand five hundred dollars, for ten days' residence in Russia, as the Senator from Maryland has stated, was held to be a Minister near that Government, during his residence in England. In regard to that, however, it was sufficient, for the present purpose, to know officially, as the Senate did, that the vacancy had happened, and had been filled by their advice and consent. They knew, too, by official documents, and by their own act in rejecting the Minister to Great Britain, that the vacancy in that office depended on no casualty or unforeseen contingency, demanding or justifying a draft on the contingent fund provided by this bill. However objectionable, therefore, the exercise of the President's power of appointment may really be, should that power be exercised in appointing a Minister to Great Britain during the recess of the Senate, and in contempt of its advice, the case of the new outfit to France rested on different principles, and he requested the attention of the members of the Senate to the distinction.

The gentleman from Maryland (Mr. CHAMBERS) has met the argument of his colleague on the subject of expenditures by the Government, by a remark to which the attention of the people of this country at this time ought to be particularly directed. Before I advert to it, however, let me premise that the chairman of the Committee on Finance, (Mr. SMITH,) in the discussion yesterday, compared the expenses of this Administration with those of the last, and sought to show us that if those same pledges of retrenchment and reform which were given on the 4th of March, 1829, in the eastern portico of this capitol, had not been all redeemed, yet the expenses of the Government were not more than they had been before that memorable day. The deeds and the very expenditures of the last Administration, reviled and persecuted as it was, are now made the standard of excellence; and the only boast of those who then told us that the task of reform was inscribed on the list of Executive duties in characters too legible to be misunderstood, now is, that they have not been more extravagant than their predecessors. The chairman agrees that the statement of these expenditures, yesterday made

by the gentleman from South Carolina (Mr. HAYNE) is correct. Here then is a chance for comparison, of which we have never yet been able to avail ourselves in debate with the honorable chairman, because, upon the correctness of other statements of expenditures, (particularly the diplomatic,) we have disagreed. But, for the sake of the argument now, let us take the report of the gentleman from South Carolina, which the chairman tells us is correct.

Mr. C. then read the statement submitted by Mr. HAYNE, of the appropriations and expenditures from 1822 to 1830, inclusive.

The expenditures were—

In 1824,	-	$10,750,000	Deducting five millions for the Florida treaty.
1825,	-	11,240,080	
1826,	-	13,002,000	
1827,	-	12,650,000	
1828,	-	13,296,000	
1829,	-	13,660,000	
1830,	-	13,229,000	

The present Administration came into power on the 4th of March, 1829. The gentleman from Georgia seems to consider the expenditures of that year as not properly chargeable to the party in power. I suppose because two months of the year had rolled away before the inauguration. And yet the same gentleman informed us that the party in Congress was alone responsible for expenditures; not the President. Judging the party by its acts in Congress, pray will he tell me why it is not answerable for the expenditures of 1828? It had a majority during the session, when the appropriations for the expenses of that year were made greater in both Houses than it has ever had since; and if, as he says, it is responsible for the acts of its members in Congress only, why should it now be permitted to evade the responsibility of its appropriations made at that session? Without subscribing to the gentleman's doctrine of the irresponsibility of him who availed himself of these appropriations to make these expenditures, I deny that, on his own ground, the gentleman and his friends can escape the expenditures of 1829. The last Administration could not have expended this money. The appropriation bills were passed, immediately before the present Executive came in, by his own friends, and the expenditures of that year were peculiarly those of him who told us how necessary it was to reform the abuses of his predecessors.

Mr. Adams came in on the 4th of March, 1825, and the expenses of his two first years, by the same statement, are actually two million six hundred and forty-seven thousand dollars less than those of 1829, '30, the two first years of the party now in power! Those of 1831 are not given with accuracy yet, but it is admitted, on all hands, that they are at least six hundred thousand dollars beyond the expenses of any year before 1829.

I come now to the remark of the gentleman before me, (Mr. CHAMBERS.) Your Administration has cut up the system of internal improvement by the roots! Your President, in 1830, put his veto on a bill, stopping appropriations to the amount of half a million, for the benefit of the country; and on the Rockville road bill, the Maysville road bill, the Louisville and Portland canal bill: thus checking all other measures of internal improvement in every section of the Union where they were demanded. Not so with the last Administration. They turned their faces against no measure having for its object the national welfare, and the improvement of the country. They were, therefore, denounced as prodigal spendthrifts of the public money; and their opponents, crying from the housetops "retrenchment and reform," came into power by means of their professions on that occasion. Where now are those who sounded the tocsin and put the country in an uproar, because of the alleged extravagance of those who, in 1825 and 1826, administered the affairs of this Union? I ask those who now entreat us to relieve the consumption of the country from unnecessary exactions, what have you gained by the change? You assisted to tear down the whole system of internal improvement, by which, under the auspices of the last Administration, our rivers were cleared of obstructions, and our country was intersected with roads and canals. You desire this as "a consummation devoutly to be wished for." But have the public expenditures been diminished? Not so. Not so. The "retrenchment" is more extravagant than the expenses you desire to retrench. Nothing is more clear than that these expenditures have increased, and are increasing, notwithstanding the country has lost the benefit of the usual appropriations, from its own funds, for internal improvement. To all such of these advocates of reform as were sincere in the opinions they formerly professed, I therefore say, come forth, and aid us in attempting to relieve the country from unnecessary burdens, in every instance where it can be done consistently with the interest and honor of the nation. Each man reserving to himself his proper opinions of other things, let us co-operate in the good work of pruning away unnecessary appropriations, and let the country have the full benefit of the results of our co-operation in that cause.

Mr. TAZEWELL said that he should vote now as he voted in the committee, unless the official document, showing the actual occurrence of the vacancy, were placed on the files of the Senate. If it were officially shown that there was now a vacancy, he would be willing to vote the appropriation. But he must have the fact standing on record here, *in perpetuam rei memoriam*, that such was the fact. His judgment on this matter had been long formed, and it was not now to be shaken. For these six years, ay, these seven years, he had cherished

the faith, in which he should die—that no President shall, during the recess, fill a vacancy which occurred during the session. If the vacancy were now put on record by the official act of the Executive, he would vote for the outfit; and if not, he would vote against any Minister who might be appointed during the recess, though he were his father, his brother, or his dearest friend.

He professed to have no wish to pry into the Executive records. He had no desire to open the *portefouille* of the Secretary of State, or the bureau of the President, to see whether Mr. Rives had been recalled or not. He had nothing to do with that. It was enough for him to know that Mr. Rives was still in France. He was willing to understand this—that the contingency might happen, or might not happen. If the contingency should occur during the recess, it was well; let the outfit in that case be provided as for a contingency. That was the true state of things. Was there not a fund already provided, adequate to meet the expense of such contingency, should it occur? He asserted that there was; and that its name —the contingent fund—sufficiently pointed out the purposes for which it was created. The sum of $30,000 had been appropriated for the contingencies of foreign intercourse. Would gentlemen undertake to say that this fund was not applicable to such an object? The gentleman from Maryland had intimated that it was not. Yet did that Senator, in 1830, vote to replenish this very fund, which had been exhausted to its last dollar, to pay outfits to foreign Ministers. Was it so, that the Senator from Maryland really thought that the President had no right to pay these outfit out of the contingent fund, yet voted to replace the sum which had been taken from the fund for that very purpose? Certainly not. No Senator could act with such inconsistency. By his vote in 1830, the Senator expressed his opinion that the President had a right to apply this fund in such cases.

During the Administration of President Washington, there occurred a singular omission on the part of Congress. No appropriation was made for paying the expenses incurred in transmitting hither the votes of the electors. When the messengers brought on the votes, there was found to be no money provided for them here. The President put his hands into this fund, and paid them. This fund was called the secret-service fund; and curiosity was alive to know what connection Washington could show between the service performed and the secret-service fund. Inquiries were set on foot: he believed there was inquiry by Congress as to the manner in which the messengers were paid. The President took a stand, and a very proper one, refusing to render any account; and the thing was not known until an appropriation to replace the sum made its appearance in the general appropriation bill. It was kept profoundly a secret, until all curiosity on the subject in Congress had subsided, and no one cared a straw about it.

He had stated this fact to show that the power of the President over this fund was absolute. In 1830, the sum requisite to provide the outfits was taken out of it; and the gentleman from Georgia, the gentleman from Maryland, and himself, had voted to reinstate it. Why, then, should not precisely the same fund be applicable to precisely the same case? If the gentleman from Maryland had shown that the contingent fund was too small, and that $40,000 would be required instead of $30,000, he was willing to give it. But he desired to give it to be disbursed on the responsibility of the President. If the Administration were satisfied with the fund as it now stood, he would not increase it. It was then sufficient for all contingencies, and no augmentation was asked for. But he was not disposed to appropriate a sum sufficient for all contingencies, and $9,000 to boot.

The principle contended for by the gentleman from Georgia, that the Executive was not to be held responsible for the expenditures of his Administration, but that Congress was, he utterly disclaimed. He had nothing to do with such an opinion. He held up both his hands against it. If true, he had nothing to do with it; if erroneous, he would protest against any application of the sentiment to him. He held the President responsible for every act to which he had given his concurrence. What were they to do, if this doctrine were to be sustained? Could they resort to the elective franchise for the redress of their grievances? Suppose the majority of Congress determined to bear down a portion of the people to the earth by taxation. They could do it, but not without the sanction of the President. What are the people of Virginia to do, when New York and Pennsylvania unite to impose on them burdens which they were not able to bear? Were they to go to the ballot-box for relief? There were but two modes of operating—by public opinion, and by the election of President. The President ought to be exempt from all partial, all local influences, and should be the common guardian of all, said Mr. T., of us, and of you. Our complaints ought to be made to him, and it is his duty to give redress. Entertaining these views, he said that he could not admit the principle of the gentleman from Georgia to be correct.

He adverted to the injurious tendency of such a doctrine, at a time when the number of those who had so constantly complained of the expenditures of Government had become so few, and was daily diminishing. The few consistent had not fallen off in zeal. Their note was not less loud. Had the gentleman from South Carolina dropped a single word or syllable of his former language? Under the last Administration, who had pressed upon them with a heavy hand, they had cried "give us relief." And were they now to be silent, be-

cause those whom they had advocated were in power? Perhaps they might always have to be oppressed by the majority, but it would not be with their own consent. Let not the gentleman from Georgia tell him, then, that he must not make the President responsible for acts of extravagance and oppression. To whom was he to look? He had no power over the Senator from Delaware, or the Senator from Ohio. He wished for none. The constitution had marked a broad line between them. He could only then resort to public opinion. It was impossible that he could recognize the doctrine that the President was not responsible for the measures which had passed both Houses of Congress, and become a law by his sanction.

TUESDAY, April 24.

Washington's Statue.

Mr. MILLER moved to amend the bill by striking ont the clause,

"To enable the President to contract for a statue of George Washington, to be placed in the rotundo in the capitol, 5,000 dollars."

Mr. M. said he did not object to the object of the appropriation, but he would deny the right of the House of Representatives to make a contract without the assent of the Senate, and then demand from the Senate an appropriation to carry it into effect. If the subject of the resolution of the House, authorizing the President to employ Mr. Greenough, had been the decoration of the Hall of Representatives, he would not have objected to the appropriation, as it would have been within the exclusive province of the House; but it related to the rotundo, which was certainly as much within the jurisdiction and control of the Senate as of the House.

Mr. SMITH said that no contract had been made with Mr. Greenough. The President had merely written to him, advising him of the resolution, and asking whether he would undertake the task. No appropriation would probably be wanted before the next year, and no inconvenience could arise from its being struck out.

Mr. MARCY said that he had been informed by a member of the Committee on Public Buildings of the House of Representatives, that there was no intention, on the part of the House, to usurp exclusive power over the capitol. They had intended to pass a joint resolution; but, through inadvertence, it was suffered to take the form of a simple resolution.

After a few words from Messrs. FORSYTH, CHAMBERS, JOHNSTON, and MILLER, the motion to strike out was agreed to. The bill was then ordered to a third reading.

MONDAY, May 7.

Stephen Pleasanton.

The bill for the relief of Stephen Pleasanton [Fifth Auditor of the Treasury, making him an allowance for extra services, in acting as Solicitor of the Treasury] was then read a third time; and on the question of its passage, the yeas and nays were ordered, on the call of Mr. MARCY.

The passage of the bill was opposed in some observations from Mr. MARCY, Mr. SMITH, and Mr. BUCKNER; and advocated by Mr. GRUNDY, Mr. FRELINGHUYSEN, Mr. CLAYTON, and Mr. WHITE.

[It was contended by the opponents of the bill that these payments for extra services was the introduction of a new principle, the adoption of which would fill the Senate chamber with applicants for similar recompense; that a public officer receiving three thousand dollars a year was bound to undertake any duties which might be imposed upon him; that the Third Auditor had performed a variety of extraordinary services, and had never called for extraordinary recompense; and that the applicant, in this case, performed these extra services by means of clerks, who were sufficiently paid. On the other side, the ground taken was that no man was expected to perform more than reasonable service; that it was absurd to expect the exclusive devotion of all the energies of soul and body to the purposes of the Government; that it would be unreasonable to expect such devotion from members of Congress, and they had no right to expect it from others; that the extra duties were performed by the applicant when other officers were enjoying the luxury of repose; that the same services, for which five hundred dollars a year were by this bill granted, had now to be performed at a cost of more than five thousand dollars a year; that the letters and instructions issued by the applicant during the ten years in which he performed those duties, filled six thousand folio pages; and that he had postponed his claim for no other reason than that he would not provoke the jealousy of other officers of the Government.]

The question on the passage of the bill being taken, was decided as follows:

YEAS.—Messrs. Bell, Benton, Clay, Clayton, Dudley, Ellis, Ewing, Frelinghuysen, Grundy, Holmes, Knight, Miller, Naudain, Poindexter, Prentiss, Robbins, Ruggles, Silsbee, Sprague, Tazewell, Tyler, Waggaman, White, Wilkins—24.

NAYS.—Messrs. Brown, Buckner, Foot, Hendricks, Hill, Marcy, Moore, Robinson, Smith, Tipton, Tomlinson—11.

WEDNESDAY, May 9.

Public Lands.

Mr. DICKERSON, pursuant to the notice which he gave yesterday, moved to take up the bill to provide for the distribution for a limited term of the proceeds of the public lands. He stated that his only object, at present, was to dispose of the pending motion of the Senator from Alabama to refer the bill to the Committee on Public Lands. Should that motion be

negatived, the bill might be taken up for discussion on an early day in the next week.

Mr. KING said he should not have risen to detain the Senate on this question, but for a remark which had fallen from the Senator from Kentucky, (Mr. CLAY,) when the subject was before the Senate on a former day. The Senator from Kentucky had stated that he (Mr. K.) had taken fire at the suggestion that this bill ought to be brought up for discussion; and that he had denounced the report of the Committee on Manufactures as unfair. In making this statement, the Senator from Kentucky had not done him justice. He certainly had not taken fire at the suggestion; but he had stated that he was not prepared to act on the bill, until it should have been referred to the Committee on Public Lands. The Senator from Kentucky had also charged him with applying the term "unfairness" to the report.

He had stated that it was calculated to make an erroneous impression on the public mind, on a subject which was of general importance, but which was vitally interesting to the State which he represented. He had certainly not intended to charge the Committee on Manufactures with any intention to circulate erroneous opinions; but he had considered that their local situation, their peculiar habits of thinking, and their knowledge of the subject, did not qualify them to come to conclusions, the accuracy of which ought not to be disputed. When he had heard this report described by members of the Senate as most able, most enlightened, and most conclusive, he had only asked that it might be referred to the Committee on Public Lands, who were conversant with the whole subject, for their examination, inasmuch as the Committee on Manufactures were less intimately acquainted with it. If the arguments were so able that they could not be answered, could not be refuted, or proved to be erroneous, its reference to the Committee on Public Lands could be productive of no ill effect on the report. On the contrary, its accuracy would be the more strongly established in the public mind.

Mr. CLAY inquired if the motion was to refer both the report and the bill, or simply the bill.

Mr. KING replied that he had divided the question, and confined the motion to the reference of the bill.

Mr. CLAY said the proposition then was to refer the bill without the report. He felt extremely happy to learn that the gentleman from Alabama had determined to exhibit no feeling on this subject, but to keep himself free from all warmth or excitement. With equal truth, he could declare that he had none. This was a great subject of national interest, and, in its consideration, every thing like feeling ought to be eradicated; every thing like party banished from the walls of the Senate. It was a subject interesting, not only to the Senate, and not only to the people of our time, but it was one in the well-disposition of which posterity would have an interest for hundreds of years to come.

He hoped the motion which had been made by the Senator from Alabama would not prevail; and as he considered the subject to be one of the highest magnitude, and wished that his name might be recorded on the question, in order to show his course to those to whom he was responsible, as well as to those who might come after him, he would not take his seat without asking that the question be taken by yeas and nays.

The question was then taken on the motion to refer, as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Ellis, Forsyth, Grundy, Hayne, Hendricks, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Poindexter, Robinson, Smith, Tazewell, Tipton, Troup, White—22.

NAYS.—Messrs. Bell, Buckner, Clay, Clayton, Dallas, Dickerson, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Knight, Naudain, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Waggaman, Wilkins—22.

The VICE PRESIDENT gave his vote in the affirmative. So the motion to refer the bill to the Committee on Public Lands was carried in the affirmative.

THURSDAY, May 10.

Post Office.

The Senate then resumed the consideration of the bill to establish certain post offices and post roads, and to discontinue others.

The question being on the motion of Mr. BIBB to amend the bill by adding a section abolishing the postage on newspapers after the 1st day of July,

Mr. CLAYTON concluded the remarks which he commenced yesterday, further commenting on the manner which the investigation instituted last year into the management of the Post Office Department was arrested.

Mr. GRUNDY made an explanation on some of the points, especially in reference to the extra allowances given by the Postmaster General in the case of Harrall, and the Baltimore and Washington contract.

Mr. HOLMES succeeded, making some additional explanations on the manner in which the inquiries of the sub-committee last year were met at the department.

The question was then taken on the amendment offered by Mr. BIBB, and determined in the negative, as follows:

YEAS.—Messrs. Bell, Bibb, Clay, Clayton, Ewing, Foot, Frelinghuysen, Hayne, Holmes, Johnston, Knight, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson—22.

NAYS.—Messrs. Benton, Brown, Buckner, Dallas, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hendricks, Hill, Kane, King, Mangum, Marcy, Robinson, Smith, Tazewell, Tipton, Troup, Tyler, White, Wilkins—23.

The bill was then further amended in its details, and was reported to the Senate. The

amendments made in Committee of the Whole were concurred in.

TUESDAY, May 15.

Death of the Hon. J. Hunt.

A message was received from the House of Representatives by M. St. Clair Clarke, the Clerk of the House, communicating the death of the honorable JONATHAN HUNT, a member of the House of Representatives from the State of Vermont, and informing the Senate that the funeral of the deceased would take place to-morrow at 4 o'clock P. M.

The message having been read,

Mr. PRENTISS, after a few eulogistic remarks on the private and public worth of the deceased, moved the following resolution:

Resolved, That the Senate will attend the funeral of the honorable JONATHAN HUNT, late a member of the House of Representatives from the State of Vermont, to-morrow at 4 o'clock in the evening; and, as a testimony of respect for the memory of the deceased, they will go in mourning, and wear crape on the left arm for thirty days.

The resolution was unanimously agreed to.

On motion of Mr. WEBSTER it was then ordered that when the Senate adjourns, it adjourn to meet on Thursday.

The Senate then adjourned.

FRIDAY, May 18.

Public Lands.

Mr. KING, from the Committee on Public Lands, to which was referred the bill reported by the Committee on Manufactures, to appropriate for a limited term the proceeds of the public lands, made a voluminous report; which was read. It condemns the bill reported by the Committee on Manufactures, and recommends a reduction of prices, and acceleration of sales. The conclusion of the report recommends that the bill reported by the Committee on Manufactures be amended so as to reduce the price of the public lands to a minimum of one dollar per acre, and of fifty cents per acre on such lands as have been in the market about five years, and to strike out the whole of the present bill, except the clause which allows 10 per cent. to the new States, and to increase that to 15 per cent.

On motion of Mr. ROBINSON, 5,000 copies of the report were ordered to be printed.

TUESDAY, May 22.

Colonel John Laurens.

The Senate then took up the bill for the relief of the representatives of Colonel John Laurens.

Mr. ROBBINS said, it will be recollected that this is a claim for expenses disbursed on a foreign mission, by Colonel Laurens, due by the then existing usage of the Government, which was to pay these expenses instead of allowing an outfit; due also by an express resolution of Congress. Nothing has been said, nothing can be said, against the merits, the intrinsic merits, of this claim: for these are obvious, they are palpable, they are undeniable.

But it has been said by the honorable gentleman from Virginia, (Mr. TAZEWELL,) that the claim (not denying its intrinsic merits, however) is stale; that it is a dormant claim, now dormant for forty years; and that, therefore, it ought not now to be satisfied. But is the fact so? Has this claim been so dormant? For more than twenty years of this period there was no one in this country to represent and to prosecute this claim; and for more than ten years of this period it has been, from time to time, before Congress, in one House or the other. And let me tell the honorable gentleman that neither House of Congress, nor any committee of either House, have ever expressed an opinion adverse to these intrinsic merits. Even the committee of whom the honorable gentleman was a member, did not report against its intrinsic merits. They say expressly, we abstain from giving any opinion upon the merits; still they recommend that the prayer of the petitioner be not granted. And why? For certain reasons embodied in the report. And what are these? The same which he now urges against this, and which I am canvassing.

The previous report in favor of this claim, after a full investigation thereof by the committee, of whom Governor Barbour was chairman, and the now President of the United States was then a member, was disagreed to by the Senate, not for the want of merits in the claim, but because all the parties to the claim were not at that time parties to the petition. But now no such difficulty exists; all the parties to the claim are parties to the petition, and can give the necessary discharges. I repeat, that neither House of Congress, and no committee of either House, have ever expressed an opinion adverse to the intrinsic merits of this claim; no, not even the gentleman himself, when, as a member of a committee, he investigated this case; nor, indeed, has he now.

But to return: I have said that, for more than twenty years of this delay, there was no one in this country to represent and to prosecute this claim. The accounts with Colonel Laurens were adjusted by the Treasury in 1790; then, Henry Laurens, his father, was an old man, and soon after died; he died in 1792. He never preferred this claim, because, as has been before stated, his son had kept no account of these expenses, and had made no charge of them against the United States; and because, as he states, he did not know that his son ever meant to make the claim. After his death, the daughter of Colonel Laurens, then a child, went to England to live with her maternal relatives, (Colonel Laurens had married in England,) where she has lived ever since, and now lives.

Her son, and only surviving child, remained in England for his education till 1819, when he came to his patrimonial inheritance in South Carolina, where he now is, in charge of that inheritance. About three years after, in 1823, this claim was made, and a petition for its allowance preferred to Congress. Here let me say that I know this grandson of Colonel Laurens, and it gives me pleasure to say that I do not know a more amiable young man. I think it impossible to know him as I do, without feeling a kindness for him for his amiable disposition, nor without feeling a respect for him, as the grandson of Colonel Laurens. Let me say to the honorable gentleman, that, if he knew him as I do, he never could have the heart to say to him: "Sir, this your hereditary claim may be just in itself; but it has remained a long time unsatisfied, and therefore ought now never to be satisfied; nor shall it be if I can prevent it. Away, sir, with your claim, and never let me hear of it again within the walls of this Senate."

Is it possible that language like this could be held to the descendant of Colonel Laurens, appealing to the justice of his country to satisfy an hereditary claim, acknowledged to be—at least, not denied to be—just in itself? And all for a laches of three years in prosecuting the claim: for that is all the laches that can be imputed. Where, let me ask, was this objection when the widow of Colonel Hamilton petitioned for the commutation claim for account of her husband?—a claim which he had never made; a claim which it has always been understood he had expressly waived; and had recorded that waiver, in order to place his vote for the commutation (he was then a member of Congress) above the suspicion of an interested motive. Yet that claim was allowed, together with the legal interest for the whole interval of time. That claim had indeed slept, was in fact dormant, from 1783 to 1816; more than thirty years; still it was allowed. The act was indeed due to the family of that great man, and did honor to the justice of the country. But if staleness was a good plea against a claim just in itself, compared with this, it applied with more than tenfold force against that; yet, against that, it was not made, or, if made, it did not prevail.

The same honorable gentleman has also said that the account of Colonel Laurens has been adjusted and closed by the Treasury, and that to open this account would be a precedent of a dangerous tendency. But let the honorable gentleman reflect that it is not proposed to open this account, nor to unsettle this settlement; no such thing. It is simply proposed to pay a claim just in itself, that never has been adjusted by the Treasury; never has been passed upon by the Treasury; never has been before the Treasury. Why it was not presented has been explained, repeatedly explained, and the explanation will, doubtless, be recollected. Colonel Hamilton's account, too, had been adjusted by the Treasury, and closed. The claim to his commutation did not disturb that settlement, for it had made no part of the account; it left the settlement good for all it professed to settle. Neither does the claim to these expenses disturb the settlement in this case, for it had made no part of the account; nor were they passed upon by the Treasury; the settlement is left good for all it professed to settle.

It is true there is a claim to a trifling amount beside, growing out of errors appearing on the face of the account, but for this claim the settlement itself is the voucher; and the claim is made because the settlement itself gives a title to it; just as good a title as a certificate of the Treasury, certifying that amount to be unpaid and still due.

But one word as to the sacredness of a settlement once made by the Treasury. Let it be sacred, if you please, with the Treasury itself; let the Treasury, thenceforth, cease to have any control over it. But is it to tie the hands of Congress, whatever injustice may have been done by the settlement? If a claim has been disallowed by the Treasury, which ought to have been allowed, and that made clearly to appear, is there to be no redress? Neither at the Treasury nor by Congress? Is this the miserable situation of a just claimant upon the Government? No, sir; no, indeed, sir, it is not. For innumerable almost have been the appeals from the injustice of Treasury settlements to the justice of Congress for relief; and when, let me ask, has relief been denied, if a just claim to it has been made out clearly and indisputably? That relief, to the honor of the public justice be it spoken, though it has sometimes, perhaps too often, been delayed, has never, I believe, been finally refused. Had not the accounts of Governor Tompkins and President Monroe been settled at the Treasury? And did not both petition Congress for relief, against the injustice of that settlement? And did not Congress grant relief—that settlement to the contrary notwithstanding? Yes, most certainly. I refer to high examples, it is true; and perhaps some may think, therefore, not applicable to ordinary cases. But justice knows not the face of man in her decrees; she knows nothing of high nor low; she gives nothing to renown for itself; she denies nothing to obscurity, because unknown; she says, and she accordingly decrees—

"Tros, Tyriusque, mihi nullo discrimine agetur."

But, if she did make these discriminations, I should not disparage the names of Tompkins and Monroe; nor would they, if living, think theirs disparaged, by being associated in the regards of their country with the name of Laurens. Neither would they challenge, nor would any one challenge for them, a higher distinction. But let it be remembered that their claims had been passed upon by the Treasury, had been disallowed by the Treasury, and were barred thereby so far as that could bar them; but that this claim of

Laurens never has been passed upon by the Treasury; never has been before the Treasury; it is indisputable; it is just in itself; it has never been satisfied. And will the Senate now say it never shall be satisfied?

A word more, and I have done. Something has been said by the honorable gentleman from Maine, not to derogate from the intrinsic merits of this claim, but to disparage the personal merits of Colonel Laurens—how becomingly, let the history of his country bear witness. That history has recorded laurel after laurel conferred upon him by his country, to attest her grateful sense of his high and glorious merits. These recorded honors have long since gathered round his tomb; they now thicken over it, and will forever adorn it. So long as the sentiment of gratitude shall beat in the bosom of his country at the recollection of her revolutionary martyrs, these recorded honors shall flourish in immortal verdure; and even if it were possible for this sentiment of gratitude to die in the bosom of his country, they would still flourish in history to kindle the sentiment of admiration in every other. For, so long as this language shall last, be spoken, or read; wherever, in all future time, the sublime virtues of patriotic devotion and heroic bearing shall sway the affections of the human heart, the name of Laurens will be the theme of unmingled praise, as the hero above fear, as the patriot beyond reproach. I confess I felt hurt that an American Senator in the American Senate—the proudest theatre in the world, and that erected on the blood of our revolutionary heroes, should indulge a wish to cast a shade, even if he could, upon one of the brightest names in that host. The fact alluded to, if it were a fact, would not, in my opinion, cast a shade, nor even the shadow of a shade, upon that bright name. It would only prove that, in that instance, as in every other, the love of country predominated, and was his ruling passion. Nor did he pursue his honorable end by dishonorable means. He did, with the funds of his country in his hands, what he had a right to do; what his duty to his country required him to do; and for doing which he had the approbation of his country, and her recorded thanks. I do not complain of the statement, therefore, for its possible effect to prejudice the pure fame of Colonel Laurens, but for its apparent intent.

For the most precious of all treasure which any country can possess, is the fame of her great men. It is that alone which renders any country resplendent in the eyes of every other. The *clarum et venerabile nomen*, in every instance, as well as in that which the poet celebrates, brings much to our city. That fame endures forever: it survives all the revolutions and the ravages of time; even those which leave the country itself a wreck, even those which blot the nation itself out of existence; even then it still survives to become the property of mankind, and to do honor to the species, and especially to do honor to the memory of the departed nation. But its great value is this—it is prolific of great men; beyond any thing and every thing else, it awakens and supplies fuel to that noblest of all sentiments, the love of country; it excites and leads on to a perpetual emulation in the race of glory. What a heart, then, must I have, if I could indulge a wish to dishonor a name that does honor, and will forever do honor, to the name of my country!

Mr. TAZEWELL opposed the claim. Its justice did not rest on the services of the deceased, for he did not deny their merit, or that they entitled him to the eulogium pronounced on his memory, in the language of the Senator from Rhode Island, as *clarum et venerabile nomen;* but it was right to go back to their merits, and ask, is there any money due or not? The claim had been before the House of Representatives before now, and as often rejected. It had become the practice, when a claim was rejected in one House, to bring it forward in the other, and there it vibrated, till at length a favorable report was obtained, and then it was again preferred with the recommendation of having passed one of the legislative bodies. But even this did not hold good respecting the present bill; for as often as it was brought forward in either House, it had received reiterated rejections. It was not analogous to the case of Colonel Hamilton. The claims of Colonel Laurens had already been settled, even before the formation of the present Government, and his receipt received for the payment of every cent due. Such was not the case as regarded Colonel Hamilton; there was no doubt of the debt due, and no such receipt existed, for the strong reason that nothing had previously been paid. Colonel L. died in 1781 or '82, and now a claim was advanced, with compound interest, four times a year for forty years. Who ever heard of the like? For these several reasons he should oppose the bill.

The bill was supported by Mr. HAYNE, and opposed by Mr. SMITH and Mr. MANGUM.

The question was then put, and the bill was ordered to a third reading, by the following vote:

YEAS.—Messrs. Buckner, Chambers, Clayton, Clay, Dallas, Dudley, Ewing, Frelinghuysen, Hayne, Johnston, Knight, Miller, Moore, Poindexter, Prentiss, Robbins, Silsbee, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—23.

NAYS.—Messrs. Bell, Dickerson, Foot, Grundy, Hendricks, Mangum, Marcy, Ruggles, Smith, Tazewell, White—11.

Bank of the United States.

Mr. DALLAS, pursuant to the notice he had given some days before, moved that the Senate now proceed to the consideration of the bill to modify and continue the act incorporating the subscribers to the Bank of the United States.

The motion was agreed to—yeas 24.

Mr. DALLAS then stated, that, having brought

this question before the Senate, he should content himself with this success, and would not, at this late hour of the day, enter into the views which he proposed to present to the Senate. He would therefore move that the Senate now adjourn; and

The Senate adjourned.

WEDNESDAY, May 23.

Mr. POINDEXTER moved that the Senate now proceed to the consideration of the joint resolution reported by him some time since, authorizing the President to cause an equestrian statue of General Washington to be executed, but the Senate refused to sustain the motion.

Bank of the United States—Recharter.

The Senate then took up the bill to modify and continue the act to incorporate the subscribers to the Bank of the United States.

Mr. DALLAS said: The great question involved in the bill then under consideration was, whether the Congress of the United States would prolong the existence of a national institution erected, sixteen years ago, for wise and salutary purposes. Shall it be permitted to expire, agreeably to the limitation of its charter, on the 3d of March, 1836? Undoubtedly the question was of considerable importance: of importance to the political, financial, and commercial interests of the country, the whole country; of importance to the American people in their diversified transactions of trade, in the every-day affairs of life, in the necessity of preparing themselves for such a shock to their social condition and active employments, as must inevitably follow upon a decision adverse to the continuance of the corporation. High and momentous as the question was, he hoped it would be encountered and canvassed by the Senate as one purely and merely of legislative business; divested of bias or prejudice of every kind; with a single view to the discharge of a representative duty to the community at large. It was, indeed, impossible, seeing what we constantly saw, and reading daily what daily appeared in the newspapers of every quarter of the country, not to know that considerations naturally extraneous and irrelevant had gradually become mixed up with this question, and had given it a character and direction alike foreign and injurious to it. He would invoke from the wisdom, and virtue, and patriotism, of the grave council he addressed, the calmest, the most candid, and most upright reflection: at least, if it were impossible to throw aside all feeling or prepossession, he was confident that every Senator would struggle to repress and subdue it: he felt no doubt that such would be the prevailing, if not universal, disposition. In the absence of all improper feeling, affecting the subject, he might be allowed to say as to himself, personally, that he should perhaps stand in need, if not on the present, perhaps on some future occasions, of the indulgence of the Senate; when he confessed the existence of that species of bias which cannot but in some degree, though, he trusted, not in a measure to blind or mislead his judgment, arise from an undying and ever-increasing veneration for the wisdom and patriotism of the author of the charter now under discussion. This was the only feeling of which he was at all conscious.

The Senate had been impelled to the discharge of this piece of legislative business in a variety of ways, and by countless memorials and petitions. The voluminous papers which were crowded to the Secretary's desk, ever since its introduction, speak no ordinary language. A very large number of the citizens of the United States, in their separate and individual capacities, affixed their signatures to these documents, and interposed their earnest prayers that this institution should be prolonged in duration. Many public corporations, actively engaged in the business of the world, even those of a rival character, competitors in the vast money transactions of the country, having felt, frankly acknowledge its beneficial influence, and had transmitted their memorials, anxiously as well as generously requesting the renewal of the charter. Rising a step higher, numerous assemblies of the people, in the East, the West, and the North, convened solely, but openly and undisguisedly, to deliberate upon this matter, had, with the imposing weight to which such assemblies are always entitled, forwarded their solicitous petitions for the renewal of the charter. And one step still further: many of the legislative bodies of the respective States of the Union, those very bodies whose voices called into official being the members of the Senate, in the formality of constitutional representative deliberation, and under the solemn responsibilities of their stations, appealed to Congress in favor of this bank, and invoked such action as would prolong its existence. Indeed, it would seem as if our fellow-citizens, in all parts of the country, individually and collectively, had attentively listened to the voice of their present Chief Magistrate, by whom they had been wisely invited to the consideration of the subject more than two years ago; and had, now that the proper occasion arrived, come forward to express the results of that consideration, with unequivocal prayers for the re-enactment of the charter. To a pressure so perfectly legitimate in its character, and distinct and respectful in its tone, Congress could not be insensible. The Senate, he doubted not, would respond to it, at least by disposing of the question as one of urgent legislative business. It was their duty to terminate it, one way or another.

The chief feature of the bill reported by the committee, and now before the Senate, was its first section, containing, as it does, an allowance of the prayers of the many memorialists to whom he had referred, by continuing in force and operation the act incorporating the Bank of the United States for the term of fifteen

years. In recommending this, the committee looked to the national institution; its structure, its purposes, its tendencies, its necessary and natural course of operations, its limitations, conditions, and restrictions, as it emanated from the legislative mould sixteen years ago. And they could discern no reason for any substantial change. They could not be affected, in the formation of this judgment, by any scrutiny into the personal conduct or motives of those to whose management the general powers of the corporation had, at any time, been confided. The abuse of a public office may disqualify its incumbent, but furnishes no argument whatever for the abolition of the office itself. Every thing which human ingenuity has devised, or can devise, for good, may be misapplied, and be made the means of mischief. The most beneficent trusts, guarded in the most careful manner, may be unfaithfully administered by bad and selfish agents. What office, legislative, judicial, or executive, could be permanent, could escape early destruction, if its existence were made dependent upon the wisdom, purity, and virtue of the human being who happened to hold it? With such a principle, we should be forever, and perhaps every year, remodelling our whole Government organization, abolishing establishments, offices, and institutions; reconstructing a fresh series only that the perpetually recurring frailties of man might lead again and unceasingly to the work of destruction and renovation.

The essential and paramount objects for the enactment of the charter of the bank, in 1816, were doubtless well remembered by the Senators present. They were, the establishment of a sound and uniform national currency; the creation of a fit instrument for the collection and distribution of the public revenue; the restoration of specie payments, then unlawfully suspended by all the State banks, the sole manufactories of the circulating medium; and the designation of a safe agency wherewith to facilitate the general financial operations of the Government. Every hour's experience, since the declaration of independence, had proved the vast importance of these objects, from the creation of the Bank of North America, under the auspices of Robert Morris, in 1781, to that of the first Bank of the United States, protected by Alexander Hamilton, in 1791, and especially during the five years of peace and of war which intervened between the expiration of the charter in 1811, and its revival in a new form in 1816. During the forty-three years which have elapsed since the adoption of the constitution, the country has been without a national bank only seven years; the national objects adverted to, were, of course, for those seven years wholly neglected; and it can be asserted without danger of denial, that five of those years teemed with more commercial disaster, fiscal embarrassment, trading inconvenience, and fraudulent money transactions, than were witnessed before, or than can possibly be witnessed during the existence of a wisely and discreetly administered Bank of the United States. He (Mr. D.) forbore making references to historical facts, further than was absolutely necessary. They were familiar in the actual experience, and fresh in the memory of those whom he addressed; and they were abundant to prove the vast, the vital importance of the objects he had enumerated as the fundamental objects contemplated by the charter of 1816.

The attainment of these great objects was, however, to be accomplished in a manner compatible with a jealous protection of the political liberties, a full security of the civil rights, an anxious solicitude for the convenience, and an ardent desire for the social happiness and prosperity of the whole American people. Hence, while a bank was selected as the means for effectuating the desired purposes, the act of its incorporation, its charter, was loaded with multiplied, efficacious, and insurmountable restrictions and limitations; the supervisory interposition of the Government was established; summary proceedings were pre-ordained for investigation and judicial trial; and the highest penalties prescribed for infractions of the charter. Every necessary mode of reaching the corporation, either to correct its abuses, to control its tendencies, or to punish its illegal acts, was carefully chalked out in advance, and held within the power of national legislation. He (Mr. D.) would not enter upon a detailed review of the provisions of the charter; the Senate and the people are alike well informed of them all; and he would only add, that the committee believed no more perfect mode of achieving, and of still preserving, now that they are achieved, the great national objects to which he had referred, can be devised, than the one delineated in that instrument.

Nor could the committee be insensible, not merely to the inutility, but to the positively disastrous consequences, to the people, and to their Government, of substituting, for the present, another Bank of the United States; of compelling this to close its enormous business, or to transfer it to other hands; of leaving the immense interests of the industrious, enterprising, and prosperous people of our country, to the extent of more than a hundred millions of dollars, to be rapidly, if not suddenly, shifted in arrangement, responsibility, and connection; or of again committing the monetary system of the entire confederacy to the charge of local and detached and conflicting State institutions, over which no control whatever could be exercised. Such an unnecessary, involuntary, forced diversion of the great streams of commercial and moneyed operations could not be effected without incalculable and incurable injury to every class, and especially to the laborious, and most worthy, and most useful class, and without sacrificing many of the great purposes of Government for which the constitution was formed. Wherefore, indeed, should such an experiment be made? The practical opera-

tions of the existing bank, under its now matured system, have attained every desired object. The currency is uniform, and representing a metallic basis; it is better for all purposes than gold or silver. The collection and distribution of the nation's revenue are gently, safely, and satisfactorily effected. Facilities of every description had been experienced in the financial movements of the Government. Salutary checks and remedies had been applied to the irregularities and fluctuations of foreign and domestic exchanges. And in all parts of the country, particularly in the progressive and enterprising regions of the West, capital and accommodation, at all times and without stint, had, in a manner alike salutary and judicious, been accorded to the people. Whatever may have been the few exceptions to the general good conduct of the officers and agents of the bank—officers and agents necessarily far distant from the seat of direction at Philadelphia; however occasionally an incident may have occurred, exceptionable or equivocal in its character, at one extremity or another of this organization, necessarily as expanded as our territory; still, all men of business must come to the conclusion that, on the whole, it had worked well; it had produced more benefit than they by whom it was originally framed had anticipated, and it had produced less injury, if, indeed, it can justly be chargeable with any, than was feared by those who opposed its establishment. To speak of it in terms of unqualified panegyric, he (Mr. D.) was not prepared; but certainly it would be extravagant to expect more to be accomplished, and to be accomplished in a better manner, by an institution so complicated, so cumbersome in size, so detached in parts, and of course liable, like all other human agencies, to be more or less affected by the frailties, the follies, or the passions of the human beings who compose or impel it.

Intentionally avoiding any anticipation of the objections which may be made to the passage of the bill, Mr. D. confined himself to this general view of the reasons which influenced the committee in reporting the re-enactment of the charter. Should the discussion make it necessary hereafter, he felt assured that every difficulty may be briefly and frankly surmounted.

He had now said all that he deemed it material or proper to say at this opening stage of the discussion on the bill. He was conscious that much might be added: but he was not desirous to anticipate objections, and would refrain from further trespassing on the attention of the Senate, until a sense of duty compelled him to it.

Mr. BENTON then inquired if it was the intention of the friends of the bill to urge on the discussion, before the documents ordered to be printed were laid on the tables.

Mr. DALLAS disclaimed any such intention. He though it probable that, if the Senate were now to adjourn, the reports and documents might be furnished by the time the Senate would meet to-morrow. He had expected that the documents would have been printed before this day, when he gave notice of his intention to call up the bill. He was not disposed to urge the discussion any further, until the whole of the information was before the Senate.

Mr. WEBSTER said that no one wished to continue the discussion until all the lights which could be shed on the subject were obtained. But he might not be disposed to wait until all the documents ordered by the other House could be printed. These documents were not under the control of the Senate. They had reached a late period of the session. The voice of the country, if it demands any thing, demands legislative action on this subject. Two or three weeks ago the House ordered these documents to be printed, and he had been daily expecting them. The different reports had been published in the newspapers: and he was desirous to see the documents on which these reports were grounded, but he was not disposed to wait very long. It would be recollected that the report of the committee of the House was hostile to the institution. They might not therefore see the importance of expediting the printing, as the other side did. At any rate, it was not a subject over which the Senate had any control. He hoped the papers might be expected without any further delay. He was not willing to push the discussion against the inclinations of Senators, but he was unwilling to put off the discussion too far. He was willing to go into executive business this afternoon, to give time for the documents to be furnished. But he could not consent to put this question aside. It was late in the session; they had reached the usual period of adjournment. A long notice had been given, and he was anxious that the discussion should now proceed, without interruption, until its termination.

Mr. GRUNDY said he entirely concurred with the Senator from Massachusetts as to the importance of going on with this discussion: and he hoped the Senate would go into executive business until the documents should be furnished.

THURSDAY, May 24.

A resolution offered yesterday by Mr. ROBBINS, referring it to the Committee on the Library to inquire into the expediency of erecting an equestrian statue of Washington, executed in bronze, in the square east of the capitol, was taken up and agreed to.

FRIDAY, May 25.

Baltimore and Ohio Railroad—Subscription to Stock.

Mr. CHAMBERS moved that the Senate take up the bill to authorize a subscription to the

stock of the Baltimore and Ohio Railroad, and asked for the yeas and nays, which were ordered.

The question being taken, the result was as follows:

YEAS.—Messrs. Bell, Chambers, Clay, Clayton, Dallas, Ewing, Hendricks, Holmes, Johnston, Knight, Naudain, Robbins, Ruggles, Silsbee, Smith, Sprague, White, Wilkins—18.

NAYS.—Messrs. Benton, Brown, Foot, Felinghuysen, Grundy, Hayne, Hill, King, Mangum, Marcy, Miller, Moore, Poindexter, Prentiss, Robinson, Seymour, Tipton, Tomlinson, Troup, Waggaman, White—21.

Bank of the United States—Recharter.

The Senate resumed the consideration of the bill to continue the Bank of the United States.

Mr. WEBSTER said: A considerable portion of the active part of life has elapsed, since you and I, Mr. President, (Mr. CALHOUN,) and three or four other gentlemen now in the Senate, acted our respective parts in the passage of the bill creating the present Bank of the United States. We have lived to little purpose, as public men, if the experience of this period has not enlightened our judgments, and enabled us to revise our opinions; and to correct any errors into which we may have fallen, if such errors there were, either in regard to the general utility of a national bank, or the details of its constitution. I trust it will not be unbecoming the occasion, if I allude to your own important agency in that transaction. The bill incorporating the bank, and giving it a constitution, proceeded from a Committee of the House of Representatives, of which you were chairman, and was conducted through that House under your distinguished lead. Having recently looked back to the proceedings of that day, I must be permitted to say that I have perused the speech by which the subject was introduced to the consideration of the House, with a revival of the feeling of approbation and pleasure with which I heard it; and I will add, that it would not, perhaps, now, be easy to find a better brief synopsis of those principles of currency and of banking, which, since they spring from the nature of money and of commerce, must be essentially the same, at all times, in all commercial communities, than that speech contains. The other gentlemen now with us in the Senate, all of them, I believe, concurred with the chairman of the committee, and voted for the bill. My own vote was against it. This is a matter of little importance; but it is connected with other circumstances, to which I will, for a moment, advert. The gentlemen with whom I acted on that occasion, had no doubts of the constitutional power of Congress to establish a national bank; nor had we any doubts of the general utility of an institution of that kind. We had, indeed, most of us, voted for a bank, at a preceding session. But the object of our regard was not whatever might be called a bank. We required that it should be established on certain principles, which alone we deemed safe and useful, made subject to certain fixed liabilities, and so guarded that it could neither move voluntarily, nor be moved by others out of its proper sphere of action. The bill, when first introduced, contained features, to which we should never have assented, and we set ourselves accordingly to work with a good deal of zeal, in order to effect sundry amendments. In some of those proposed amendments the chairman, and those who acted with him, finally concurred. Others they opposed. The result was, that several most important amendments, as I thought, prevailed. But there still remained, in my opinion, objections to the bill, which justified a persevering opposition till they should be removed.

The influence of the bank, Mr. President, on the interests of the Government, and the interests of the people, may be considered in several points of view. It may be regarded as it affects the currency of the country; as it affects the collection and disbursement of the public revenue; as it respects foreign exchanges; as it respects domestic exchanges; and as it affects, either generally or locally, the agriculture, commerce, or manufactures of the Union.

First, as to the currency of the country. This is, at all times, a most important political object. A sound currency is an essential and indispensable security for the fruits of industry and honest enterprise. Every man of property or industry, every man who desires to preserve what he honestly possesses, or to obtain what he can honestly earn, has a direct interest in maintaining a safe circulating medium; such a medium as shall be a real and substantial representative of property, not liable to vibrate with opinions, not subject to be blown up or blown down by the breath of speculation, but made stable and secure, by its immediate relation to that which the whole world regards as of permanent value. A disordered currency is one of the greatest of political evils. It undermines the virtues necessary for the support of the social system, and encourages propensities destructive of its happiness. It wars against industry, frugality, and economy; and it fosters the evil spirits of extravagance and speculation. Of all the contrivances for cheating the laboring classes of mankind, none has been more effectual than that which deludes them with paper money. This is the most effectual of inventions to fertilize the rich man's field, by the sweat of the poor man's brow. Ordinary tyranny, oppression, excessive taxation, these bear lightly on the happiness of the mass of the community, compared with fraudulent currencies, and the robberies committed by depreciated paper. Our own history has recorded for our instruction enough, and more than enough, of the demoralizing tendency, the injustice, and the intolerable oppression on the virtuous and well-disposed, of a degraded paper currency, authorized by law, or any way countenanced by Government.

We all know, sir, that the establishment of a sound and uniform currency was one of the great ends contemplated in the adoption of the present constitution. If we could now fully explore all the motives of those who framed, and those who supported it, perhaps we should hardly find a more powerful one than this. The object, indeed, is sufficiently prominent on the face of the constitution itself. It cannot well be questioned that it was intended by that constitution to submit the whole subject of the currency of the country, all that regards the actual medium of payment and exchange, whatever that should be, to the control and legislation of Congress. Congress can alone coin money; Congress can alone fix the value of foreign coins. No State can coin money; no State can fix the value of foreign coins; no State (nor even Congress itself) can make any thing a tender but gold and silver, in the payment of debts; no State can emit bills of credit. The exclusive power of regulating the metallic currency of the country would seem necessarily to imply, or, more properly, to include, as part of itself, a power to decide how far that currency should be exclusive, how far any substitute should interfere with it, and what that substitute should be. The generality and extent of the power granted to Congress, and the clear and well-defined prohibitions on the States, leave little doubt of an intent to rescue the whole subject of currency from the hands of local legislation, and to confer it on the General Government. But, notwithstanding this apparent purpose in the constitution, the truth is, that the currency of the country is now, to a very great extent, practically and effectually under the control of the several State Governments; if it be not more correct to say that it is under the control of the banking institutions created by the States: for the States seem first to have taken possession of the power, and then to have delegated it.

Whether the States can constitutionally exercise this power, or delegate it to others, is a point which I do not intend, at present, either to concede or to argue. It is much to be hoped that no controversy on the point may ever become necessary. But it is a matter highly deserving of consideration, that, although clothed by the constitution with exclusive power over the metallic currency, Congress, unless through the agency of a bank established by its authority, has no control whatever over that which, in the character of a mere representative of the metallic currency, fills up almost all the channels of pecuniary circulation.

In the absence of a Bank of the United States, the State banks become effectually the regulators of the public currency. Their numbers, their capital, and the interests connected with them, give them, in that state of things, a power which nothing is competent to control. We saw, therefore, when the late war broke out, and when there was no national bank in being, that the State institutions, of their own authority, and by an understanding among themselves, under the gentle phrase of suspending specie payments everywhere south of New England, refused payment of their notes. They were not called to answer for this violation of their charters, as far as I remember, in any one State. They pleaded the urgency of the occasion, and the public distresses; and in this apology the State Governments acquiesced. Congress, at the same time, found itself in an awkward predicament. It held the whole power over coins. No State, or State institution, could give circulation to an ounce of gold or of silver, not sanctioned by Congress. Yet all the States, and a hundred State institutions, claimed and exercised the right of driving coin out of circulation by the introduction of their own paper; and then of depreciating and degrading that paper, by refusing to redeem it. As they were not institutions created by this Government, they were not answerable to it. Congress could not call them to account, and, if it could, Congress had no bank of its own, whose circulation could supply the wants of the community. Coin, the substantial constituent, was, and was admitted to be, subject only to the control of Congress; but paper, assuming to be a representative of this constituent, was taking great liberties with it, at the same time that it was no way amenable to its constitutional guardian. This suspension of specie payments was of course immediately followed by great depreciation of the paper. It shortly fell so low, that a bill on Boston could not be purchased at Washington under an advance of from twenty to twenty-five per cent. I do not mean to reflect on the proceedings of the State banks. Perhaps their best justification is to be found in the readiness with which Government itself borrowed of them their paper, depreciated as it was; but it certainly becomes us to regard, attentively, this part of our experience, and to guard, as far as we can, against similar occurrences.

I am of opinion, sir, that a well-conducted national bank has an exceedingly useful and effective operation on the general paper circulation of the country. I think its tendency is manifestly to restrain, within some bounds, the paper issues of other institutions. If it be said, on the other hand, that these institutions in turn hold in check the issues of the national bank, so much the better. Let that check go to its full extent. An over-issue by the bank itself, no one can desire. But it is plain that, by holding the State institutions, which come into immediate contact with itself and its branches, to an accountability for their issues, not yearly or quarterly, but daily and hourly, an important restraint is exercised. Be it remembered, always, that what it is to expect from others, it is to perform itself; and that its own paper is at all times to turn into coin by the first touch of its own counter.

But, Mr. President, so important is this sub-

ject, that I think that, far from diminishing, we ought rather to increase and multiply our securities; and I am not prepared to say that, even with the continuance of the bank charter, and under its wisest administration, I regard the state of our currency as entirely safe. It is evident to me that the general paper circulation has been extended too far for the specie basis on which it rests. Our system, as a system, dispenses too far, in my judgment, with the use of gold and silver. Having learned the use of paper as a substitute for specie, we use the substitute, I fear, too freely. It is true that our circulating paper is all redeemable in gold and silver. Legally speaking, it is all convertible into specie at the will of the holder. But a mere legal convertibility is not sufficient. There must be an actual, practical, never-ceasing convertibility. This, I think, is not, at present, sufficiently secured; and, as it is a matter of high interest, it well deserves the serious consideration of the Senate. The paper circulation of the country is, at this time, probably seventy-five or eighty millions of dollars. Of specie, we may have twenty or twenty-two millions: and this, principally, in masses in the vaults of the banks. Now, sir, this is a state of things which, in my judgment, leads constantly to overtrading, and to the consequent excesses and revulsions which so often disturb the regular course of commercial affairs. A circulation, consisting in so great a degree of paper, is easily expended, to furnish temporary capital to such as wish to adventure on new enterprises in trade; and the collection in the banks of most of what specie there is in the country affords all possible facility for its exportation. Hence, overtrading does frequently occur, and is always followed by an inconvenient, sometimes by a dangerous, reduction of specie. It is in vain that we look to the prudence of banks for an effectual security against overtrading. The directors of such institutions will generally go to the length of their means in cashing good notes, and leave the borrower to judge for himself of the useful employment of his money. Nor would a competent security against overtrading be always obtained, if the banks were to confine their discounts, strictly, to business paper, so denominated; that is, to notes and bills which represent real transactions, having been given and received on the actual purchase and sale of merchandise, because these transactions themselves may be too far extended. In other words, more may be bought than the wants of the community require, on a speculative calculation of future prices. Men naturally have a good opinion of their own sagacity. He who believes merchandise is about to rise in price, will buy merchandise, if he possesses money, or can obtain credit. The fact of actual purchase, therefore, is not proof of a really subsisting want; and of course the amount of all purchases does not correspond always with the entire wants or necessities of the community. Too frequently it very much exceeds that measure. If, then, the discretion of the banks, exercised in deciding the amount of their discounts, is not a proper security against overtrading; if facility in obtaining bank credits naturally fosters that spirit; if the desire of gain and love of enterprise constantly cherish it; and if it finds specie collected in the banks inciting exportation, what is the remedy suited and adequate to the case? Now, I think, sir, that a closer inquiry into the direct source of the evil will suggest the remedy. Why have we so small an amount of specie in circulation? Certainly the only reason is, because we do not require more. We have but to ask its presence, and it would return. But we voluntarily banish it by the great amount of small bank notes. In most of the States the banks issue notes of all low denominations, down even to a single dollar. How is it possible, under such circumstances, to retain specie in circulation? All experience shows it to be impossible. The paper will take the place of the gold and silver. When Mr. Pitt, in the year 1797, proposed in Parliament to authorize the Bank of England to issue one pound notes, Mr. Burke lay sick at Bath of an illness from which he never recovered; and he is said to have written to the late Mr. Canning, "Tell Mr. Pitt, that if he consents to the issuing of one pound notes, he must never expect to see a guinea again."

The one pound notes were issued, and the guineas disappeared. A similar cause is producing now a precisely similar effect with us. Small notes have expelled dollars and half dollars from circulation in all the States in which such notes are issued. On the other hand, dollars and half dollars abound in those States which have adopted a wiser and safer policy. Virginia, Pennsylvania, Maryland, Louisiana, and some other States, I think seven in all, do not allow their banks to issue notes under five dollars. Every traveller notices the difference when he passes from one of these States into those where small notes are allowed. The evil, then, is the issuing of small notes by State banks. Of these notes, that is to say, of notes under five dollars, the amount now in circulation is doubtless eight or ten millions of dollars. Can these notes be withdrawn? If they can, their place will be immediately supplied by a specie circulation of equal amount. The object is a great one, as it is connected with the safety and stability of the currency, and may well justify a serious reflection on the means of accomplishing it. May not Congress and the State Governments, acting, not unitedly, but severally to the same end, easily and quietly attain it? I think they may. It is but for other States to follow the good example of those which I have mentioned, and the work is done. As an inducement to the States to do this, I propose, in the present bill, to reserve to Congress a power of withdrawing from circulation a pretty large part of the issues of the

Bank of the United States. I propose this, so that the State banks may withdraw their small notes, and find their compensation in a larger circulation of those of a higher denomination. My proposition will be, that, at any time after the expiration of the existing charter of the bank, that is, after 1836, Congress may, if it see fit, restrain the bank from issuing for circulation notes or bills under a given sum—say ten or twenty dollars. This will diminish the circulation, and consequently the profits, of the bank; but it is of less importance to make the bank a highly profitable institution to the stockholders, than that it should be safe and useful to the community. It ought not, certainly, to be restrained from the enjoyment of all the fair advantages to be derived from the discreet use of its capital in banking transactions; but the leading object, after all, in its continuance, is, and ought to be, not private emolument, but public benefit.

Measures, therefore, such as I have alluded to, would be likely, I fear, rather to aggravate, than to remedy the evil. We must hope that all notes under five dollars may be entirely withdrawn from circulation, by the consent of the States and the State banks; and when that shall be done, their place will be immediately supplied with specie. We should then receive an accession of ten millions of dollars, at least, to our specie circulation; and those ten millions will find their place, not in the banks, not collected anywhere in large masses, but in constant use, among all classes, and in hourly transfer from hand to hand. It cannot be denied that such an addition would give great strength to our pecuniary system, discourage excessive exportation of specie, and tend to restrain and correct the evils of overtrading. England has applied the like remedy to a similar evil, though she has carried the restriction much higher, and allowed the circulation of no notes for less sums than five pounds sterling.

I have thought this subject, Mr. President, of so much importance, as that it was fit to present it, at this time, to the consideration of the Senate. I propose to do no more at present, than to insert such a provision as I have described in this bill. In the mean time, I hope the matter may attract the attention of those whose agency will be desired to accomplish the general object.

SATURDAY, May 26.

Bank of the United States—Recharter.

The Senate resumed the consideration of the bill to modify and continue the act to incorporate the subscribers to the Bank of the United States.

Mr. MOORE offered as an amendment to the bill an additional section, providing that it should not be lawful to establish a branch in any State without the assent of that State; that the capital of such branch shall be subject to taxation, in like manner with that of the State bank; and that, if the bank does not declare what is the amount of such capital, it may be lawful for the State to assume any particular sum as the amount of the capital. Mr. M. did not wish, at present, to press the consideration of this amendment, and he moved that it be printed.

Mr. DALLAS presumed there would be no objection to the motion to print, provided it did not delay the discussion of the bill.

The motion to print was agreed to.

Mr. WEBSTER proceeded to say that yesterday he had alluded to a modification contained in the seventh section, which regarded the bonus to be paid by the bank for its exclusive privileges. That section provided that the bonus should be paid in three annual instalments, of $500,000 each. He would move that it be amended, so that the bank should pay, by way of a bonus, an annuity or yearly sum of $150,000, each and every year during its term of fifteen years.

Mr. MARCY inquired if there was not a proposition before the committee, from a very respectable quarter, to pay a bonus of three millions of dollars for the charter of a bank.

Mr. WEBSTER answered that there was.

Mr. BENTON objected to the payment of any bonus whatever, and, in lieu of that species of compensation, expressed his opinion that the proper compensation for the bank, provided this exclusive privilege was sold to it, would be to reduce the rate of interest on loans and discounts. A reduction of interest would be felt by the people; the payment of a bonus would not be felt by them. It would come into the Treasury, and probably be lavished immediately on some scheme, possibly unconstitutional in its nature, and sectional in its application. He was not in favor of any scheme for getting money into the Treasury at present. The difficulty lay the other way. The struggle now was to keep money out of the Treasury; to prevent the accumulation of a surplus; and the reception of this bonus would go to aggravate that difficulty, by increasing that surplus. Kings might receive bonuses for selling exclusive privileges to monopolizing companies. In that case his subjects would bear the loss, and he would receive the profit; but, in a republic, it was incomprehensible that the people should sell to a company the privileges of making money out of themselves. He was opposed to the grant of an exclusive privilege; he was opposed to the sale of privileges; but if granted, or sold, he was in favor of receiving the price in the way that would be most beneficial to the whole body of the people; and, in this case, a reduction of interest would best accomplish that object. A bank, which had the benefit of the credit and revenue of the United States to bank upon, could well afford to make loans and discounts for less than six per centum. Five per centum would be high interest for such a bank; and he had no doubt, if time

was allowed for the application, that applications enough would be made to take the charter upon these terms.

Being on his feet, Mr. B. said he would again go on to submit some reasons why the question of renewing the bank charter should not be decided at this time. He did not object to discussion. It was through discussion that the people were reached. Congressional debates excited and fixed their attention, often imparted to them information, and aided them in reflecting back their wishes and sentiments upon their representatives. He applauded the President for having brought this subject before the Congress and the people, in his three annual Messages; he was well satisfied that the directors of the bank had moved their application at the present time: he had no objection even to the present discussion, except that it detained him from his family, and consumed time which he wished to employ on subjects of more immediate and pressing importance to his constituents; but he took a clear and broad distinction between discussion and decision; and as discussion should always precede decision, and leave as much time for consideration afterwards as possible, he was opposed to decision now. There was certainly no necessity for it. The bank charter had four years yet to run, and two years after that to continue in force for winding up its affairs; in all, six years before the dissolution of the corporation: and if he was to name the true appropriate time for Congress to make its decision, it would be in the two years which intervened between the expiration of the charter and the dissolution of the corporation; and this would remit the final decision to the Congress which would sit between 1836 and 1838. The stockholders had not applied for the recharter at this session. Their resolution, adopted in triennial meeting last September, authorized the president and directors to apply at any time before the next triennial meeting, which would be in September, 1834; so that, according to the resolution of the stockholders, there were yet two sessions of Congress to be held before the question need be decided.

Many reasons oppose the final action of Congress upon this subject at the present time. We are exhausted with the tedium, if not with the labors of a six months' session. Our hearts and minds must be at home, though our bodies are here. Mentally and bodily we are unable to give the attention and consideration to this question, which the magnitude of its principles, the extent and variety of its details, demand from us. Other subjects of more immediate and pressing interest must be thrown aside, to make way for it. The reduction of the price of the public lands, for which the new States have been petitioning for so many years, and the modification of the tariff, the continuance of which seems to be weakening the cement which binds this Union together, must be postponed, and possibly lost for the session, if we go on with the bank question. Why has the tariff been dropped in the Senate? Every one recollects the haste with which that subject was taken up in this chamber; how it was pushed to a certain point; and how suddenly and gently it has given way to the bank bill! Is there any union of interest—any conjunction of forces—any combined plan of action—any alliance, offensive or defensive, between the United States Bank and the American system? Certainly they enter the field together, one here, the other yonder, (pointing to the House of Representatives,) and leaving a clear stage to each other, they press at once upon both wings, and announce a perfect non-interference, if not mutual aid, in the double victory which is to be achieved. Why have the two bills reported by the Committee on Manufactures, and for taking up which notices have been given, why are they so suddenly, so easily, so gently, abandoned? Why is the land bill, reported by the same committee, and a pledge given to call it up when the Committee on Public Lands had made their counter report, also suffered to sleep on the table? The counter report is made; it is printed; it lies on every table; why not go on with the lands, when the settlement of the question of the amount of revenue to be derived from that source precedes the tariff question, and must be settled before we know how much revenue should be raised from imports?

An unfinished investigation presented another reason for delay in the final action of Congress on this subject. The House of Representatives had appointed a committee to investigate the affairs of the bank; they had proceeded to the limit of the time allotted them; had reported adversely to the bank, and especially against the renewing of the charter at this session; and had urged the necessity of further examinations. Would the Senate proceed while this unfinished investigation was depending in the House? Would they act so as to limit the investigation to the few weeks which were allowed the committee, when we have from four to six years on hand in which to make it? The reports of this committee, to the amount of some 15,000 copies, had been ordered by the two Houses of Congress, to be distributed among the people. For what purpose? Certainly that the people may read them, make up their minds upon their contents, and communicate their sentiments to their representatives. But these reports are not yet distributed; they are not yet read by the people; and why order this distribution without waiting for its effects, when there is so much time on hand? Why treat the people with this mockery of a pretended consultation, while proceeding to act before they can read what we have ordered to be sent to them? Nay, more, the very documents upon which the reports are founded are yet unprinted! The Senate is actually pushed into this discussion, without having seen the evidence which

was collected by the investigating committee, and which the Senate itself has ordered to be printed for the use of its members!

The decision of this question, continued Mr. B., does not belong to this Congress, but to the Congress which will be elected under the new census of 1830. It looked to him like usurpation for this Congress to seize upon a question of this magnitude, which need not be decided until the new and full representation of the people comes in, and, if decided, the decision of which is irrevocable, though it cannot take effect until 1836, that is to say, until three years after the new and full representation would be in power. What Congress is this? It is the apportionment of 1820, formed on a population of ten millions of people. It is just going out of existence. A new Congress, apportioned upon a representation of thirteen millions, is already provided for by law, and after the 4th of March next—within nine months from this day—will be in power, and entitled to their seats where we now sit. That Congress will contain thirty members more than the present. Millions of people are now unrepresented, who will be then represented. The West alone loses twenty votes!—in the West alone, a million of people lose their voice in the decision of this question! And why? What excuse? What necessity? What plea for this sudden haste which interrupts an unfinished investigation, sets aside the immediate business of the people, and usurps the rights of our successors? No plea in the world, except that a gigantic moneyed institution refuses to wait, and must have her imperial wishes immediately gratified. If charters were to be granted, it should be with as little invasion of the rights of posterity—with as little encroachment upon the privileges of our successors, as possible. Once in ten years, and that at the commencement of each full representation under a new census, would be the most proper time.

Mr. B. had nothing to do with motives. He neither preferred accusations, nor pronounced absolutions; but it was impossible to shut his eyes upon facts, and to close up his reason against the deduction of inevitable inferences. The Presidential election was at hand—it would come on in four months—and here was a question which, in the opinion of all, must affect that election—in the opinion of some, may decide it—which is pressed on for decision four years before it is necessary to decide it, and six years before it ought to be decided. Why this sudden pressure? Is it to throw the bank bill into the hands of the President, to solve, by a practical reference, the disputed problem of the Executive veto, and to place the President under a cross fire from the opposite banks of the Potomac River? He (Mr. B.) knew nothing about that veto, but he knew something of human nature, and something of the rights of the people under our representative form of Government; and he would be free to say that a veto which would stop the encroachment of a minority of Congress upon the rights of its successors—which would arrest a frightful act of legislative usurpation—which would retrieve for the people the right of deliberation, and of action—which would arrest the overwhelming progress of a gigantic moneyed institution—which would prevent Ohio from being deprived of five votes, Indiana from losing four, Tennessee four, Illinois two, Alabama two, Kentucky, Mississippi and Missouri one each—which would save six votes to New York and two to Pennsylvania; a veto, in short, which would protect the rights of two millions of people, now unrepresented in Congress, would be an act of constitutional justice to the people, which ought to raise the President, and certainly would raise him, to a higher degree of favor in the estimation of every republican citizen of the community than he now enjoyed. By passing on the charter now, Congress would lose all check and control over the institution for the four years it had yet to run. The pendency of the question was a rod over its head for these four years; to decide the question now, is to free it from all restraint, and turn it loose to play what part it pleased in all our affairs—elections, State, federal, and Presidential—that it pleased.

Mr. B. said he had given reasons enough to show the inexpediency of final action upon this question at present; but he had another reason to give, of a nature entirely different from those he had urged, and one which was entitled to the consideration, not only of the people's representatives here, but of the people themselves at home. It was a reason which would address itself to that portion of the people, and their representatives, who were in favor of national banking, but not wedded to the present British monarchial bank, miscalled Bank of the United States. He alluded to the establishment of several American banks, with moderate capitals, and without exclusive privileges, to be located in the different sections of this Union, and to supersede and succeed the present gigantic institution. This was the plan of Mr. Madison. He suggested it in his speech in the House of Representatives, in the year 1791, against the establishment of the first United States Bank, and recommended it to the consideration of those who were determined to embark the United States in the banking career, he himself being opposed to any banks; but if there was one, he insisted there ought to be several. The genius of our republican Government, the equal privileges of the people, the extent of our country, the diversity of our pursuits, and our abhorrence of monopolies, would all require the multiplication and diffusion of banks, if there was a single one. Mr. Madison complained of the proneness of our statesmen to copy English examples, without considering the difference between the genius of the English Government and our own. Theirs was a monarchy; ours a

republic: theirs preferred a single bank, with enormous power and extensive privileges, because it favored the concentration of wealth and power in the hands of a few; ours (if it admitted of any bank) would require several, because it abhorred exclusive privileges, and required the diffusion of wealth and power, and the equal distribution of benefits, as well as burdens, to all parts of the Union. The suggestion of Mr. Madison had appeared to him (Mr. B.) to be eminently just and proper from the time that he first read it; and he had been entirely confirmed in that opinion, and convinced of the advantage of several banks over one, (if there are to be any,) even in a monarchy, by tracing and comparing the history of the three Scottish banks with the single British bank. In reading this history, he had seen the advantage of checking powers in banking Governments as well as in political Governments. The three Scottish banks had held each other in check, had proceeded moderately in all their operations, conducted their business regularly and prudently, and always kept themselves in a condition to face their creditors; while the single English bank, having no check from rival institutions, ran riot in the wantonness of its own unbridled power, deluging the country, when it pleased, with paper, and filling it with speculation and extravagance; drawing in again when it pleased, and filling it with bankruptcy and pauperism; often transcending its limits, and twice stopping payment, and once for a period of twenty years. There can be no question of the incomparable superiority of the Scottish banking system over the English banking system, even in a monarchy; and this has been officially announced to the Bank of England by the British Ministry, as far back as the year 1826, with the authentic declaration that the English system of banking must be assimilated to the Scottish system, and that her exclusive privilege could never be renewed. This was done in a correspondence between the Earl of Liverpool, first Lord of the Treasury, and Mr. Robinson, Chancellor of the Exchequer, on one side, and the Governor and Deputy Governor of the Bank of England on the other. In their letter of the 18th January, 1826, the two Ministers, adverting to the fact of the stoppage of payment, and repeated convulsions of the Bank of England, while the Scottish banks had been wholly free from such calamities, declared their conviction that there existed an unsound and delusive system of banking in England, and a sound and solid system in Scotland! And they gave the official assurance of the British Government, that neither his Majesty's Ministers, nor Parliament, would ever agree to renew the charter of the Bank of England with their exclusive privileges! Exclusive privileges, they said, were out of fashion! Nor is it renewed to this day, though the charter is within nine months of its expiration!

In the peculiar excellence of the Scottish plan, lie a few plain and obvious principles, closely related to republican ideas. First. No exclusive privileges. Secondly. Three independent banks to check and control each other, and diffuse their benefits, instead of one to do as it pleased, and monopolize the moneyed power. Thirdly. The liability of each stockholder for the amount of his stock, on the failure of the bank to redeem its notes in specie. Fourthly. The payment of a moderate interest to deposits. Upon these few plain principles, all of them founded in republican notions, equal rights, and equal justice, the Scottish banks have advanced themselves to the first rank in Europe, have eclipsed the Bank of England, and caused it to be condemned in its own country, and have made themselves the model of all future banking institutions in Great Britain. And now, it would be a curious political phenomenon, and might give rise to some interesting speculations on the advance of free principles in England, and their decline in America, if the Scottish republican plan of banking should be rejected here, while preferred there, and the British monarchial plan, which is condemned there, should be perpetuated here! and this double incongruity committed without necessity, without excuse, without giving the people time to consider, and to communicate their sentiments to their constituents, when there are four, if not six years, for them to consider the subject before final decision is required!

Mr. B. concluded with saying that the plan which he suggested was not only to be republican, but American; it was to admit of no stockholders but those who were citizens. The present Bank of the United States was full of foreigners. It was monarchial in its organization, and foreign in its character. The former Bank of the United States was justly odious, and truly condemned, on account of its foreign composition; and the present bank was more largely imbued with foreign capital than the former one was. Foreigners, in the former bank, held but 18,000 shares of $400 each, making $7,200,000 of stock; in the present bank, they own 84,055 shares of $100 each, making $8,405,500 of stock. It is to no purpose to say the foreigners have no votes: those who have the money will rule in all moneyed institutions. They had no votes in the former bank; but the republicans of 1811 would not tolerate an institution of which they were members. The best feature in the Scottish plan of banking—the best which he proposed in the plan he had sketched—was the liability of stockholders for the amount of their stock. This, of course, would require American stockholders; as a privilege to sue British lords and ladies in England, Scotland, and Ireland, would be a nugatory and ridiculous provision.

Mr. CLAYTON had a few observations to make in answer to the gentleman from Missouri, (Mr.

BENTON,) on the postponement of the bill to a more advanced period. He had suggested that party feelings would be engendered with it, and that, in consequence of the Presidential election, it would become a party question with the people, and therefore ought to be postponed. He would reply to the gentleman, that the question has been pressed on Congress at this very session by the President himself, and their acting on it is in perfect accordance with the sentiments he has expressed.

[Mr. CLAYTON here read the paragraph in the last Message in reference to the subject.]

As he (Mr. C.) understood the sentence, the President had conceived it his duty to press the early decision of this important question on the people, nor could he see, nor appreciate, the principle laid down by the gentleman, (Mr. B.,) how it could influence the election, or be put aside on that account, when they were told it had been brought before them by the President himself.

But, again, he (Mr. C.) would inquire of the Senator from Missouri, if his argument were now good, as to its postponement till the time of the expiration of the charter, why he had so strenuously pressed a decision on the question even last session. If the gentleman's memory will only serve him, or if he will turn to what is recorded on their journals, he will find that, on the 2d of February, 1831, a resolution was introduced by himself, that "the sense of Congress should be expressed against renewing the charter." In that year the gentleman had thought it right for Congress to pass on its constitutionality—why not now, in 1832? He (Mr. C.) could not see the force of the gentleman's reasoning respecting the new ratio. The President had not referred to it, nor was it probable it had ever occurred to him; and it appeared to him (Mr. C.) that the President had placed it before the present Congress. He trusted, he was confident, that, in deciding the question, party feelings would have no place. He perfectly agreed with the honorable chairman of the committee, (Mr. DALLAS,) that it should be solely a legislative business, and that they should act on it as such, and not suffer themselves to be carried away by any bias or prejudice whatever, or other feelings. It was a measure in which the interests of the whole American people were involved, and if aught of party feelings would have place, they would not be introduced by himself, or the friends with whom he generally coincided in sentiment. There was no occasion for him to dwell on the general features of the measure, after the eloquent remarks of the gentleman from Massachusetts (Mr. WEBSTER) yesterday.

Mr. MARCY hoped the Senator from Massachusetts would put his proposition in blank, that we may increase the amount of the bonus. It had been declared by a very intelligent friend of the bank, that the renewal of the charter would increase the value of the stock, by the amount of seventeen millions of dollars. It was proper, therefore, that the Government should have a suitable equivalent for the benefit thus to be conferred on the stockholders.

The question was then taken on Mr. WEBSTER's amendment, and it was decided in the affirmative—yeas 32, nays 10.

On motion of Mr. BENTON, the yeas and nays being desired by one-fifth of the Senators present, those who voted are as follows:

YEAS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ellis, Ewing, Foot, Frelinghuysen, Grundy, Hayne, Hendricks, Johnston, King, Knight, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Robinson, Seymour, Silsbee, Tazewell, Tipton, Tomlinson, Waggaman, Webster, White, Wilkins.

NAYS.—Messrs. Benton, Brown, Dickerson, Dudley, Hill, Mangum, Marcy, Smith, Sprague, Troup.

Mr. WEBSTER then submitted two amendments, and moved that they be printed; which was ordered.

MONDAY, May 28.

Bank of the United States—Prohibition of Notes under Twenty Dollars.

The Senate proceeded to consider the bill to modify and continue the charter of the Bank of the United States.

The question being on the amendments proposed by Mr. WEBSTER, being in substance—

1st. That the Secretary of the Treasury should, at any time hereafter, when directed by the President, have the power to purchase additional stock in the bank to an amount not exceeding three millions; and

2d. That it should not be lawful for the bank, after the 4th of March, 1831, to issue any notes of a less value than —— dollars.

Mr. WEBSTER acceded to the suggestion of the gentleman from South Carolina, that, in reference to his first amendment, Congress could act hereafter, whenever such action should be called for by circumstances. He would not therefore press that amendment.

The amendment was then withdrawn.

Mr. WEBSTER said a few words in defence of his second amendment, which imposed no restriction until after the expiration of the present charter. The effect of his proposition would be to introduce more specie into circulation, and to banish the small notes with which the country is inundated. He moved to fill the blank with ten dollars, but expressed his willingness to vote for a higher restriction, if any Senator should move it.

Mr. BENTON would propose to substitute twenty dollars, and would ask for the yeas and nays on the question. He alluded to the precedent in England, of fixing on a high amount, and to the evils that had occurred from a contrary system, by the efforts of counterfeiters being confined to notes of small amount, as cir-

culating among the laboring and poorer classes, who were less able to detect the forgery. The notes of the United States Bank, also, circulating to the greatest distance, where counterfeits were less liable to be detected, if of a low amount, and thus circulating among the marketing class, might induce the same evils.

Mr. CLAY mentioned the state of the banking system in Kentucky—the failure of several banks. When he first heard the amendment, he was opposed to it. The proposition to pass an enactment thus restricting the amount of the notes, would seriously affect the resources of that State—they had no bank of their own, and, by raising the notes of the bank above five dollars, they would have to have recourse to the notes of their neighboring States for their circulating medium, to transact their ordinary business and dealing. Therefore, he was opposed to a higher sum than ten dollars, and would only agree to this, as a discretionary favor resting in Congress whether it might be prudent hereafter to fix on that amount.

After a few remarks from Mr. FOOT and Mr. CHAMBERS, the question was taken on filling the blank with twenty dollars, when it was agreed to; and the amendment thus shaped was concurred in.

Taxation of the Bank Stock by the States.

Mr. MOORE then moved his amendment, 1st, That no branch should be established in any State, without the assent of the State; and, 2d, That every branch shall be liable to taxation in the State as the State banks are, or in proportion as other property is taxed.

Mr. WEBSTER said he trusted the Senate would not act on these propositions, without fully understanding their bearing and extent. For my own part, said he, I look upon the two parts of the amendment, as substantially of the same character. Each, in my opinion, confers a power in the States to expel the bank at their pleasure; in other words, entirely to defeat the operations and destroy the capacity for usefulness of the whole bank. The simple question is, shall we, by our own act, in the charter itself, give the States permission to expel the bank and all its branches from their limits, at their own pleasure? The first part of the amendment gives this permission in express terms; and the latter part gives it in effect, by authorizing the States to tax the loans and issues of the bank, with no effectual limitation. It appears to me idle to say that this power may be safely given, because it will not be exercised. It is to be given, I presume, on the supposition that probably some of the States will choose to exercise it; else why is it given at all? And will they not so choose? We have already heard, in the course of this debate, of two cases in which States attempted to exercise a power of this kind, when they did not constitutionally possess it. Two States have taxed the branches, for the avowed purpose of driving them out of their limits, and were prevented from accomplishing this object merely by force of judicial decisions against their right. If, then, these attempts have been made to exercise this power, when it was not legally possessed, and against the will of Congress, is there any doubt it will be exercised when its exercise shall be permitted, and invited by the proposed amendment? No doubt, in my mind, the power, if granted, will be exercised, and the main object of continuing the bank thus defeated.

Now, sir, in the first place, I doubt exceedingly our power to adopt this amendment, and I pray the deliberate consideration of the Senate, in regard to this point. In the first place, let me ask, what is the constitutional ground on which Congress created this corporation, and on which we now propose to continue it? There is no express authority to create a bank, or any other corporation, given to us by the constitution. The power is derived by implication. It has been exercised, and can be exercised, only on the ground of a just necessity. It is to be maintained, if at all, on the allegation that the establishment of a national bank is a just and necessary means of carrying on the Government, and of executing the powers conferred on Congress by the constitution. On this ground, Congress has established this bank, and on this it is now proposed to be continued. And it has already been judicially decided that Congress having established a bank for these purposes, the Constitution of the United States prohibits the States from taxing it. Observe, sir, it is the constitution, not the law, which lays this prohibition on the States. The charter of the bank does not declare that the States shall not tax it. It says not one word on that subject. The restraint is imposed not by Congress, but by a higher authority, the constitution. Now, sir, I ask how we can relieve the States from this constitutional prohibition. It is true that this prohibition is not imposed in express terms; but it results from the general provisions of the constitution, and has been judicially decided to exist in full force. This is a protection, then, which the Constitution of the United States, by its own force, holds over this instrument, which Congress has deemed necessary to be created, in order to carry on the Government, so soon as Congress, exercising its own judgment, has chosen to create it. Can we throw off, from this Government, this constitutional protection? I think it clear we cannot. We cannot repeal the constitution. We cannot say that every power, every branch, every institution, and every law of this Government, shall not have all the force, all the sanction, and all the protection, which the constitution gives it. By the constitution, every law of Congress is finally to be considered, and its construction ultimately settled by the Supreme Court of the United States. These very acts, before referred to, taxing the banks, were held valid by more or fewer of the States' judicatures, but were finally pronounced un-

constitutional by the Supreme Court of the United States; and this, not by force of any words in the charter, but by force of the constitution itself. I ask whether it is competent for us to reverse this provision of the constitution, and to say that the laws of Congress shall receive their ultimate construction from the State courts. Again: the constitution gives Congress a right to lay duties of imposts, and it prohibits the exercise of any such power by the States. Now, it so happens that the national Treasury is full, and the State Treasuries are far less so. It might be thought very convenient that a part of the receipts at the custom-houses should be received by the States. But will any man say that Congress could now authorize the States to lay and collect imposts under any restrictions or limitations whatever? No one will pretend it. That would be to make a new partition of power between this Government and the State Governments. Mr. Madison has very correctly observed, that the assent of the States cannot confer a new power on Congress, except in those cases especially provided in the constitution. This is very true; and it is equally true that the States cannot obtain a new power, by the consent of Congress, against the prohibition of the constitution, except in those cases which are expressly so provided for in the constitution itself.

Allow me now, Mr. President, to inquire on what ground it is that the States claim this power of taxation? They do not claim it as a power to tax all property of their own citizens. This they possess, without denial or doubt. Every stockholder in the bank is liable to be taxed for his property therein, by the State of which he is a citizen. This right is exercised, I believe, by all the States which lay taxes on money at interest, income, and other subjects of that kind. It is, then, not that they may be authorized to tax the property of their own citizens; nor is it because any State does not participate in the advantage of the premium or bonus paid by the bank to Government for the charter. That sum goes into the Treasury for the general good of all.

Nor can the claim be sustained, nor indeed is it asserted, on the strength of the mere circumstance that a branch or an office is established in a State. Such office or branch is but an agency. It is no body politic or corporate. It has no legal existence of itself. It is but an agent of the general corporation. That these agents have their residence or place of business in a particular State, is not of itself the foundation of any claim. But, according to the language of the amendment, the ground of this claim to tax is evidently the loans and issues; and these loans and issues, properly speaking, are the loans and discounts of the bank. The office, as an agent, conducts the arrangements, it is true; but the notes which are issued are notes of the bank, and the debts created are debts due to the bank. The circulation is the circulation of the bank. Now the truth is, what the States claim, or what this amendment proposes to give them, is, a right to tax the circulation of the bank. It is on this right that the argument rests. The common way of stating it is, that, since State banks pay a tax to the State, these branch banks, coming among them, ought to pay a similar tax. But the State banks pay the tax to the State, for the privilege of circulation; and the proposition is, therefore, neither more nor less than that the United States Bank shall pay the States for the same privilege. The circulation of the bills is the substance. The locality of the office is but an incident. An office is created, for example, on Connecticut River, either in Massachusetts, Vermont, Connecticut, or New Hampshire. The notes of the bank are loaned at this office, and put into circulation in all these States. Now no one will say that the State where the office happens to be placed, should have a right to lay this tax, and the other States have no such right. This would be a merely arbitrary distinction. It would be founded on no real or substantial difference, and no man could seriously contend for it, as it seems to me. Under this very amendment, Pennsylvania would be authorized to collect a large tax, and New Jersey no tax at all, although the State circulation of New Jersey is as much infringed and diminished as that of Pennsylvania by the circulation of the Bank of the United States. The States which have the benefit of branches, (if it be a benefit,) are to have the further advantage of taxation, while other States are to have neither the one nor the other. Founding the claim on the State right to derive benefit from the paper circulation which exists within it, the advocates of the claim are clearly not consistent with themselves when they maintain a measure which professes to protect that right in some States, and to leave it unprotected in others.

But the inequality of the operation of this amendment is not the only, nor the main, objection to it. It proceeds on a principle not to be admitted. It asserts, or it takes for granted, that the power of authorizing and regulating the paper currency of the country is an exclusive State right. The ground assumed can be no less broad than this: because the Bank of the United States having the grant of a power from Congress to issue notes for circulation, its right is perfect, if Congress could make such grant. It owes nothing to the States, if Congress could give what it has undertaken to give; that is to say, if Congress, of its own authority, may confer a right to issue paper for circulation. Now, sir, whosoever denies this right in Congress, denies, of course, its power to create such a bank as now exists; at least, so it strikes me. The Bank of the United States is quite unconstitutional, if the whole paper circulation belongs to the States; because the Bank of the United States is a bank of circulation, and was so intended to be by Congress, which expressly authorized the cir-

culation of notes and bills. The power of issuing notes for circulation is not an indispensable ingredient in the constitution of a bank merely as a bank. The earlier banks did not possess it, and many good ones have existed without it. A bank with no such power might yet very well collect the public revenue, (provided there was a proper medium in which it could be paid,) could tolerably well remit the revenue to the Treasury, and could deal usefully, to some extent, in the business of exchange.

On what ground is it, then, that Congress possesses the power not only to create a bank, but a bank of circulation? Simply, as I suppose, because Congress possesses a constitutional control over the currency of the country, and has power to provide a safe medium of circulation, as well for other purposes, as for the collection of its own debts and revenue. The bank, therefore, already possesses unconstitutional power, if the paper circulation be the subject, exclusively, of State right or State regulation. Indeed, sir, it is not a little startling that such exclusive right should now be asserted. I observed, the other day, that, in my opinion, it was very difficult to maintain, on the face of the constitution itself, and independent of long-continued practice, the doctrine that the States could authorize the circulation of bank paper at all. They cannot coin money; can they then coin that which becomes the actual and almost the universal substitute for money? Is not the right of issuing paper, intended for circulation, in the place and as the representative of metallic currency, derived merely from the power of coining and regulating that metallic currency? As bringing this matter to a just test, let me ask whether Congress, if it had not the power of coining money, and of regulating the value of foreign coins, could create a bank, with the power to circulate bills. For one, I think it would be difficult to make that out. Where, then, do the States, to whom all control over the metallic currency is altogether prohibited, get this power? It is true, that, in other countries, private bankers, having no legal authority over the coin, issue notes for circulation. But this they do always with the consent of Government, expressed or implied; and Government restrains and regulates all their operations at its pleasure. It would be a startling proposition, in any other part of the world, that the prerogative of coining money, held by Government, was liable to be defeated, counteracted, or impeded, by another prerogative, held in other hands, of authorizing a paper circulation.

It is further to be observed, that the States cannot issue bills of credit; not that they cannot make them a legal tender, but that they cannot issue them at all. Is not this a clear indication of the intent of the constitution to restrain the States as well from establishing a paper circulation, as from interfering with the metallic circulation? Banks have been created by States with no capital whatever; their notes being put into circulation simply on the credit of the State or the State law. What are the issues of such banks but bills of credit issued by the State?

I confess, Mr. President, that the more I reflect on this subject, the more clearly does my mind approach the conclusion that the creation of State banks, for the purpose, and with the power of circulating paper, is not consistent with the grants and prohibitions of the constitution. But, sir, this is not now the question. The question is not whether the States have the exclusive power; it is, whether they alone have the power. May they rightfully exclude the United States from all interference with the paper currency? Are we interlopers, when we create a bank of circulation? Do we owe them a seignorage for the circulation of bills, by a corporation created by Congress? Up to the present time, the States have been content with a concurrent power. They have indeed controlled vastly the larger portion of the circulation; but they have not claimed exclusive authority over the whole. They have demanded no tax or tribute from a bank issuing paper under the authority of Congress. Nor do I know that any State or States now insist upon it. It may be that individual States have put forth such claims, in their legislative capacity; but, at present, I recollect no instance. The amendment, however, which is now proposed, asserts the claim, and I cannot consent to yield to it. We seem to be making the last struggle for the authority of Congress to interfere at all with the actual currency of the country. I shall never agree to surrender that authority; I would as soon yield the coinage power itself; nor do I think there would be much greater danger, nor a much clearer departure from constitutional principle, in consenting to such surrender, than in acquiescing in what is now proposed.

Mr. MOORE said: With due deference to the opinion of other gentlemen, I must be permitted to say that I view the power of taxation as one of the highest attributes of State sovereignty, and that the State possesses this power in the most unlimited extent over all objects or subjects of property within its jurisdiction. Sir, I care not whether the property belongs to a foreigner or a citizen, provided it be within the jurisdiction of the State, and receives protection from her laws; this circumstance constitutes the right of taxation.

The State of Alabama imposes a tax upon foreign merchandise, their own bank stock, the money of their own citizens placed at interest; race turfs, race horses, pleasurable carriages, &c.; these are considered as the most legitimate objects of taxation, because the tax is either paid by the wealthy, who are most able to bear it, or it is paid for property, which is most profitable to the owners. But we are compelled to go further, and extend the tax to other objects, real estate, slaves, a man's saddle

horse, his cattle, his family clock in his house, his time-piece in his pocket; nay, sir, a poor man who owns not one cent of property, and may have a large family to support, is required to pay a poll tax; yes, sir, he must pay for his scalp, and upon the principle that his personal rights and privileges are protected by the laws of the State which makes this demand upon him.

I have said that foreign merchandise, introduced from New York or elsewhere, was in our State subject to taxation; and why should not moneyed capital, brought from Europe or elsewhere, be also subject to taxation? Why should the individual who brings this capital among us, enjoy exemption from liability to taxation? This capital is more actively and profitably employed. Bankers drag thousands of dollars from the pockets of our fellow-citizens; their rights are equally protected; the laws afford them all the necessary facilities in carrying on their banking operations, in the collection of their debts, &c. And what is more, if their rights are invaded, they will be defended by the citizens of the State, and mainly by these very poor men, too, who pay a poll tax, many of whom have no property to protect and defend, while they, with their lives, defend and protect millions for bankers. For my part, I cannot conceive of a more legitimate subject of taxation than bank stock. For the reasons I have already intimated, the tax is paid by those most able to bear it, and upon property which yields immense profits to the owners.

But the propriety of this tax is objected to, again, on the ground that the corporation has already given to the General Government a sufficient equivalent for all the privileges, immunities, &c., in the bonus provided for in this amended charter; and to permit the States to impose a further tax, would be too burdensome and improper, &c. Now, sir, is this so? Are we not bound to view this bonus as in consideration for the franchise, immunities, and the deposits the General Government afford this institution, as a corporate body, unconnected with the privileges it may enjoy by the location of its branches in the States, under State authority? Can it be presumed that a State would yield its right of taxation, as regards its branches, for the inconsiderable amount of interest it may have in the bonus? Of what value will the proportion of this one and a half million of dollars, to which the State of Alabama may be entitled, be to that State? It will not be the means of reducing the high taxes and heavy burdens which are pressing so oppressively upon our citizens. No, sir, this bonus will be taken from the general coffers, and appropriated to purposes of internal improvement, the erection of breakwaters, light-houses, canals, subscription to stock in the Baltimore and Ohio Railroad Company, &c.; for, sir, it was with some difficulty that an attempt to obtain one million from the Treasury for this project was sucessfully resisted the other day. Sir, experience assures us these are the purposes to which this one and a half million of dollars will be appropriated, unless, indeed, the amendment of the honorable Senator from Maine (Mr. SPRAGUE) shall succeed, which provides that the bonus shall be divided among the several States according to their respective representation in Congress. And, sir, although I do not think this would do justice to the State of Alabama, yet I believe, as a distinct and substantive proposition, I would support it in preference to the original plan; but, sir, I cannot vote for it as a substitute for the proposition I have had the honor to submit.

TUESDAY, May 29.

Bank of the United States—Recharter.

The Senate resumed, as in Committee of the Whole, the bill to modify and continue the act to incorporate the subscribers to the Bank of the United States.

Mr. WEBSTER made some observations at length, in reply to the arguments of Mr. TAZEWELL. After he had concluded,

Mr. TAZEWELL inquired if he had understood the Senator from Massachusetts correctly, as entertaining doubts of the power of the States to create State banks.

Mr. WEBSTER replied that it was now too late to question a power which had been acquiesced in by the different branches of the Federal Government for these forty years. But if the question had been originally put to him before such acquiescence, he should have expressed great doubts on the subject. He then referred to the clauses of the constitution which prohibit the States from coining money, and reserve to the United States the exclusive power of regulating the currency, and making issues of gold and silver; and inferred, that, if the constitution thus cautiously excluded the States from issuing a metallic currency, it never intended that they should authorize the issue of that which is a representative of the metallic currency. The States had been indulged with the power of creating banks for forty years, and now they demanded to make that power exclusive, and to tax the branches of the United States Bank established in their limits, for the purpose of establishing a uniform currency.

Mr. FORSYTH asked if he had understood the Senator from Massachusetts as stating that the States had the right to tax such of their citizens as held stock in the United States Bank, on account of that stock.

Mr. WEBSTER replied in the affirmative.

Mr. FORSYTH replied that if that was the case, how was it contended that the eight and a half millions of stock held by foreigners were to be considered as not liable to taxation?

Mr. WEBSTER replied that, by the comity of nations, the property of foreigners was held free from taxation. Why did we not tax the

loans of the Barings to the Ohio Canal, or the Holland loan to the Chesapeake and Ohio Canal, or the Pennsylvania loan? It is the understanding between nations, not to tax private property in peace, nor to confiscate it in war. We may hold stock in the funds of Great Britain, but we are not liable to taxation for that stock.

After a few words from Mr. SPRAGUE, in explanation of his views,

Adjourned.

FRIDAY, June 1.

Bank of the United States—Recharter.

The Senate sitting as in Committee of the Whole, the consideration of the bank bill was resumed—the question still pending on Mr. MOORE'S amendment, giving the several States the power of taxing the issues and loans of the bank; and on Mr. SPRAGUE'S motion to strike out so much of the same, and to substitute a clause to distribute the bonus to be paid by the bank among the States, according to their federal numbers.

Mr. BIBB rose. The amendments proposed embraced, he said, two distinct questions. The first question related to the propriety of recognizing the power of taxation in the several States within their own jurisdiction; and the amendment to this went to abrogate such power, and to substitute a correlative proposition in its place, enacting that the bonus to be paid by the bank for its exclusive privileges and franchise should be distributed among the States. Now, for his part, he could not agree to such substitute; for he could not yield up the question of the power of taxation in the States. Such a substitute would seem an attempt to change the nature of the original federal compact—to enlarge it—to make the power of the Federal Government more transcendent than at the adoption of the federal constitution. As regarded the first question, relative to the power of taxing residing in the States, it had been argued in two ways that it did not exist; that this could be proved by the decision of the Supreme Court; and again, that, if it did not exist under the old charter of the bank, Congress could not give it now. It was with the greatest reluctance that he would impugn any decision of the Supreme Court; for, than himself, no man had a higher opinion of its merits, or held it in higher respect. But, nevertheless, he would not blindly surrender his judgment to any tribunal, however exalted, when it was evident its judgment was erroneous. And when the Supreme Court erred, he would not hesitate to express his dissent. And, in the case of McCulloch against the bank, it was his opinion that the court had so erred, that its decision amounted to a *felo de se*. The principles and the premises there assumed were erroneous—of consequence, so was the conclusion. It was also argued that, if the power of taxation were granted, it included the power to destroy. He (Mr. B.) denied the proposition, and would contend that the power of taxation included the power to protect. The argument was only accordant with tyrannical principles, not with republican doctrines. It was one which could not be exercised in a republic. Where, again, the power of taxation is granted, he would assert that the party exercising this right is bound to protect those taxed in lieu thereof, the same as other institutions. If the argument were conceded, it would allow of the distinction of the property of the bank, and the individual property of the stockholders. And what would become of the property of foreigners? Every day's experience showed the result of taxation within our jurisdiction; if foreign merchants introduced goods, they were taxed at the very threshold, no matter where the owners were domiciled, and the protection of their rights of property followed. It was a universal principle, that our power to tax foreign goods, on their introduction, involved protection, not confiscation. The latter power would be that of a demon, not that of a civilized Government. If real estate is purchased by this corporation, as such, it is not, it is true, the property of A or B, but of the stockholders at large. It is united property, and as a whole, like other property, is a fair subject of taxation. Again: did he hold his property in the bank, he thought that it should not, for that reason, be exempt from taxation. And why should not corporations be taxed? Faculties were taxed. Look at our early laws for internal improvements. Lawyers were taxed for the right of exercising their profession; and even our Administration—the property in their hands, under executory deeds, was a subject of taxation. He would ask why, if a person chose to invest his property or his money in this manner, in a corporation, it should not be liable to taxation. Has it not more profit when thus invested, than in any other mode, and not subject to as much labor or attention on the part of the individual? It was known that, after the payment of all expenses, it left a clear dividend, equal, if not more than property otherwise invested. It should be taxed, in his opinion, above all other property, because it allowed the stockholders, without any trouble on their part, to exercise their different avocations and professions; and that it was the fairest subject of taxation in the world, because it allowed its owner other disposal of his time.

As this tax formed a portion of the revenue of the country, it must be manifest that the power to impose it existed in the General Government from the adoption of the Federal Union. When the constitution was formed, the right was never doubted. But this power (taking it for granted) in the United States was possessed as concurrent by the several States, unless where, by their own consent, it was expressly denied them by the constitution. Within

their own jurisdiction they possessed as full and concurrent power of taxation as the General Government. To prove this, he would refer to the early exposition of this part of our constitution, at the time of its adoption, when it was necessarily best understood. It would be found in the "Federalist," page 32, written by Alexander Hamilton.

He had already endeavored to show, by the opinions of Hamilton, and his exposition of the constitution, that the several States possessed a concurrent power of taxation with the Government itself, unless when defined to the contrary; and these were limited to two subjects, viz., imports and exports, the taxing of which is placed in the Government alone. The income on the public lands, which had since been created, might be also adduced; but where the United States had laid a tax on them, did it prevent the State Government from taxing the same? Both had done so. If the United States laid its hand on some particular objects for taxation, whether slaves, land tax, or other things, it did not place an exclusive right in the Government; because, exercised in those particulars, the State was deprived of the like power, but had likewise a correlative, a concurrent power. Nor does it follow that, if this corporation be invested with certain immunities, they shall operate as a bar against the right inherent in the States. Such privileges, if invested in those individuals in their corporate capacity, would resemble the old noblesse in France, whose estates were exempt from all taxation, throwing the burden on the people, and create in this country a great moneyed aristocracy, a privileged class. He would never consent to such privileges. Out of a capital of thirty-six millions, only seven were owned by the Government, thus leaving twenty-nine millions of exempted property. Then, as regarded the property owned by non-residents, which, it would appear, amounted to one-fourth of the whole. By the decision of the Supreme Court, that we could not tax the subjects of a foreign Government, this property was exempt; and if this argument and decision were correct, the whole stock of the bank might be transferred, and thus a general exemption take place. Could this be allowed? And were the States to be called on by their authority, to give their protection to the officers of this corporation resident within them, and yet be restricted from taxing the property and the individuals thus protected? He would ask, what boon was given to the States in lieu?

Mr. B. referred to the laws that had already been passed for taxing the Bank of the United States. In the third volume of the Laws of the United States, would be found an imposition of a direct tax, and, among other things, the law imposes a stamp tax on the notes of all the banks; and the Bank of the United States then, existing under the authority of the United States, had a tax imposed on it, and did make the composition of one per cent. provided for by that law. The other law was that of 1813, which law imposed a tax on banks, and the Bank of the United States was not then exempted. If the Government, then, possesses the power of taxing the United States Bank, how is it that the States are to be divested of that power? It has been said that, if this power be conceded to the States, they will act widely and inconsiderately, and tax the bank to its ruin. But, because a power may be abused, does it argue that this power does not exist? If this be conceded, it would prohibit the exercise of all lawful power, both by the Federal and State Governments. He meant no disrespect to the Congress of the United States, when he asked if there had never been an abuse, or indiscreet exercise of power, on their part. Where was the remedy, when there was such an indiscreet exercise of power? There was none, other than in the returning good sense of the people of the United States, exercised through their representatives. He admitted that the State of Ohio had acted indiscreetly in taxing the bank so extravagantly as she did. But let us review the circumstances under which she acted. At the close of the war, there was no Bank of the United States, but the currency of the country was confined to notes of the State banks. The Government applied to these banks, and urged them to take its loans. He was in Congress at the time that the cashiers attended, and exposed the situation of the bank. We have no money, said they; but we have stock on which we make our discounts; we consider this cash, which could be realized in time of peace, but now not available. Every bank applied to, thus exposed their situation, and declared their inability to lend; that when war came, their situation would be perilous, for the stock on which they relied, and which yielded them six per cent., could not be turned into money, in case of a pressure on their banks. The reply of the Secretary was that of a statesman. The Government, said he, must have money; and the consequence was, specie payments by the banks ceased; the Government continued to sell Treasury notes to them, and they continued to make loans to the Government. The notes of these banks not paying specie, were taken to an immense amount, and circulated throughout the country, for the payment of the troops, and for the purchase of all the supplies needed to carry on the war; for, unfortunately, the banks that did pay specie, refused to lend money to support an "unnatural and unjust war." When peace came, no time was allowed to these banks, who had put into circulation such a vast amount of notes in order to serve the Government, to call in their circulation; but, forgetful of the benefits received from them, the Government immediately created another bank, to compel those banks to find specie for the amount they had out. What was the consequence? The Bank of the United States went into operation with not three millions, and, in

less than eighteen months, issued notes to the amount of eighteen millions, which was afterwards reduced to nine millions. The State banks were drained of their specie to supply the Bank of the United States, (upwards of seventy-two millions were drawn from Kentucky and Ohio alone,) until they found themselves in a situation of great depression and embarrassment, and many of them were ruined. Now, it was not astonishing that, in this state of things, when such a besom of destruction was sweeping away the State institutions, and the fortunes of individuals connected with them, that there should have been such an excitement as caused the legislation of the State of Ohio, before referred to. At that very time, the State of Kentucky was employing, through the medium of her State bank, a capital of seven hundred and fifty thousand dollars, acquired by the sale of her Green River lands. This was the case, also, with the State of Ohio, who made a similar investment of her capital. The bank interfered, and these State institutions were ruined. Here was the cause of the extraordinary excitement which produced that extraordinary taxation of a bank that had produced so much injury. He was not now arguing the question whether the bank should be rechartered or not; he was only contending that, if it should be rechartered, it should not be in such a way as to have the power of breaking down the State institutions.

Mr. DUDLEY said that, recognizing the right of the several States to give instructions to their Senators, who ought to consider themselves bound to obey them, he had no difficulty in yielding a ready obedience to the instructions contained in the resolutions he then held in his hands. These resolutions were adopted at the late session of the Legislature of the State of New York, and had never yet been presented to the Senate. The subject had a long time been under discussion, and that resolution had finally received the concurrence of a majority of two-thirds of the Legislature. He believed, therefore, that they spoke the language of a majority of the State. He should accordingly vote against the bill, in whatever shape or form it might be modified. He took this opportunity of expressing his disapprobation to granting a great moneyed monopoly in consideration of a bonus. He concurred in the principles of the amendment offered by the gentleman from Alabama, affirming the rights of the States to tax the branches of the bank to the extent that they tax their own institutions, and should give to the amendment his support. In the State of New York, which had a banking capital of twenty-four millions, all paid in, and many insurance and other incorporated companies, all such institutions were taxed, not by the State, for there was no State tax, so called, but taxed under the authority of the State for local purposes. The taxes raised from forty to eighty cents, averaging about fifty cents on the one hundred dollars. He felt that he should neglect the interests of the State he represented here, if he did not urge the introduction of a clause in the bill, reserving to the States the right to tax the branches of the bank equally with their institutions. He asked the reading of the resolutions, and that they might be laid on the table. Mr. D. then handed in and the Secretary read the resolutions adopted by both branches of the Legislature of New York, instructing their Senators and requesting their Representatives in Congress to oppose the rechartering of the Bank of the United States.

Mr. BENTON said: The amendment offered by the Senator from Alabama (Mr. MOORE) was declaratory of the rights of the States, both to refuse admission of these branch banks into their limits, and to tax them like other property, if admitted; if this amendment was struck out, it was tantamount to a legislative declaration that no such rights existed, and would operate as a confirmation of the decision of the Supreme Court to that effect. It is to no purpose to say that the rejection of the amendment will leave the charter silent upon the subject; and the rights of the States, whatsoever they may be, will remain in full force. That is the state of the existing charter. It is silent upon the subject of State taxation; and in that silence the Supreme Court has spoken, and nullified the rights of the States. That court has decided that the Bank of the United States is independent of State legislation! consequently, that she may send branches into the States in defiance of their laws, and keep them there without the payment of tax. This is the decision; and the decision of the court is the law of the land; so that, if no declaratory clause is put into the charter, it cannot be said that the new charter will be silent, as the old one was. The voice of the Supreme Court is now heard in that silence, proclaiming the supremacy of the bank, and the degradation of the States; and, unless we interpose now to countervail that voice by a legislative declaration, it will be impossible for the States to resist it, except by measures which no one wishes to contemplate.

The argument that these branches are necessary to enable the Federal Government to carry on its fiscal operations, and, therefore, ought to be independent of State legislation, is answered and expunged by a matter of fact, namely, that Congress itself has determined otherwise, and that in the very charter of the bank. The charter limits the right of the Federal Government to the establishment of a single branch, and that one in the District of Columbia! The branch at this place, and the parent bank at Philadelphia, are all that the Federal Government has stipulated for. All beyond that is left to the bank itself to establish branches in the States or not, as it suited its own interest, or to employ State banks, with the approbation of the Secretary of the Treasury, to do the business of the branches for the United States.

Congress is contented with State banks to do the business of the branches in the States; and, therefore, authorizes the very case which gentlemen apprehend and so loudly deprecate, that New York may refuse her assent to the continuance of the branches within her limits, and send the public deposits to the State banks. This is what the charter contemplates. Look at the charter; see the fourteenth article of the constitution of the bank; it makes it optionary with the directors of the bank to establish branches in such States as they shall think fit, with the alternative of using State banks as their substitutes in States in which they do not choose to establish branches. This brings the establishment of branches to a private affair, a mere question of profit and loss to the bank itself; and cuts up by the roots the whole argument of the necessity of these branches to the fiscal operations of the Federal Government. The establishment of branches in the States is, then, a private concern, and presents this question: shall non-residents and aliens—even alien enemies, for such they may be—have a right to carry on the trade of banking within the limits of the States, without their consent, without liability to taxation, and without amenability to State legislation? The suggestion that the United States owns an interest in this bank, is of no avail. If she owned it all, it would still be subject to taxation, like all other property is which she holds in the States. The lands which she had obtained from individuals in satisfaction of debts, were all subject to taxation; the public lands which she held by grants from the States, or purchases from foreign powers, were only exempted from taxation by virtue of compacts, and the payment of five per centum on the proceeds of the sales for that exemption.

The right of the States to tax banking institutions of every kind, State or federal, is just as clear, and rests upon the same foundation, as her right to tax land and houses, merchants and jewellers, ferries and taverns. The right clearly exists with respect to the branches of the United States Bank; and ought Congress to destroy that right, by refusing to insert a declaratory clause to protect it against the decision of the Supreme Court? Of all the subjects of taxation, the moneyed power is the most suitable and proper. Jews were taxed, and enormously taxed, all over Europe, because they dealt in money. They were made to bear the chief burden of taxation, because, having most money, they were most able to bear it. These branch banks ought to be taxed, at least as much as the citizens of the State, upon the same principle. These foreigners and non-residents, carrying on the trade of banking within a State, and making immense sums out of the people of the State, to be carried off and expended elsewhere, and contributing nothing to the military defence of the State, ought certainly to contribute in money to the support of the Government from which they derive all the benefits of wealth and protection. The lands of non-residents, and of aliens, are not exempted from taxation; why should their banks be exempted! Great is the profit which they derive from the banking business; great is the power which it gives them over the persons and the property of our citizens. The bank debt is now about seventy millions of dollars, which cannot be a less annual tax upon the people of this Union than five or six millions of dollars. In the West alone the debt is near thirty millions, and the annual interest, with exchange and other charges, near three millions. The abduction of specie from the South and West, by the operation of these branches, is now ascertained to exceed twenty-three millions of dollars! Of this immense sum, Louisville has furnished one million one hundred and seven thousand five hundred and sixty-three dollars; Cincinnati, six hundred and twenty-seven thousand dollars; Pittsburg, about nine hundred thousand; St. Louis, three hundred thousand, (within the last two years;) New Orleans, about twelve millions of dollars, besides near a million more shipped direct to Europe, without passing through the mother bank. When carried to Philadelphia, much of this specie is sent abroad, to be sold at a premium in Europe. About five millions of dollars have thus been exported and sold by the bank within a few years at a premium of ninety seven thousand one hundred and forty dollars; and, in lieu of specie thus abducted from the South and West, these sections are deluged with a small paper currency, as illegal as it is unsound and vicious, and practically unconvertible into specie, because it is made payable five hundred or a thousand miles off. All the flourishing cities of the West are mortgaged to this moneyed power. They may be devoured by it at any moment. They are in the jaws of the monster! A lump of butter in the mouth of a dog! one gulp, one swallow, and all is gone!

The question was then taken on striking out Mr. MOORE'S amendment, and decided in the affirmative, by the following vote:

YEAS.—Messrs. Bell, Buckner, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—26.

NAYS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Grundy, Hayne, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Robinson, Tazewell, White—18.

SATURDAY, June 2.

Bank of the United States—Recharter.

The Senate again, sitting as a Committee of the Whole, resumed the consideration of the bank bill.

The series of amendments submitted by Mr. BENTON came up in order.

The first was in the following words:

"That so much of the original charter as restricts any future Congress from granting charters of incorporation to other banking companies, and grants an exclusive privilege to the stockholders in the Bank of the United States, shall be, and the same hereby is, repealed from and after the third day of March, in the year one thousand eight hundred and thirty-six."

Mr. BENTON pointed out the clauses in the charter which granted the exclusive privilege, and imposed the restriction, which it was the object of his motion to abolish; and read a part of the 21st section, which enacted that no other bank should be established by any future law of the United States, during the continuance of that charter, and which pledged the faith of the United States to the observance of the monopoly thereby created. He said the privilege of banking, here granted, was an exclusive privilege, a monopoly, and an invasion of the rights of all future Congresses, as well as of the rights of all citizens of the Union, for the term the charter had to run, and which might be considered perpetual; as this was the last time that the people could ever make head against the new political power which raised itself in the form of the bank to overbalance every other power in the Government. This exclusive privilege is contrary to the genius of our Government, which is a Government of equal rights and not of exclusive privileges; and it is clearly unauthorized by the constitution, which only admits of exclusive privileges in two solitary, specified cases, and each of these founded upon a natural right, the case of authors and inventors; to whom Congress is authorized to grant, for a limited time, the exclusive privilege of selling their own writings and discoveries. But in the case of this charter there is no natural right, and it may be well said there is no limited time; and the monopoly is far more glaring and indefensible now than when first granted; for then the charter was not granted to any particular set of individuals, but lay open to all to subscribe to it; but now it is to be continued to a particular set, and many of them foreigners, and all of whom, or their assignees, had already enjoyed the privilege for twenty years. If this company succeeds now in getting their monopoly continued for fifteen years, they will so entrench themselves in wealth and power, that they will be enabled to perpetuate their charter, and transmit it as a private inheritance to their posterity. Our Government delights in rotation of office; all officers, from the highest to the lowest, are amenable to that principle; no one is suffered to remain in power thirty-five years; and why should one company have the command of the moneyed power of America for that long period? Can it be the wish of any person to establish an oligarchy with unbounded wealth and perpetual existence, to lay the foundation for a nobility and monarchy in this America!

The restriction upon future Congresses is at war with every principle of constitutional right and legislative equality. If the constitution has given to one Congress the right to charter banks, it has given it to every one. If this Congress has a right to establish a bank, every other Congress has. The power to tie the hands of our successors is nowhere given to us; what we can do, our successors can; a legislative body is always equal to itself. To make, and to amend; to do, and to undo; is the prerogative of each. But here the attempt is to do what we ourselves cannot amend—what our successors cannot amend—and what our successors are forbidden to imitate, or to do in any form. This shows the danger of assuming implied powers. If the power to establish a national bank had been expressly granted, then the exercise of that power, being once exerted, would be exhausted, and no further legislation would remain to be done; but this power is now assumed upon construction, after having been twice rejected in the convention which framed the constitution, and is, therefore, without limitation as to number or character. Mr. Madison was express in his opinions in the year 1791, that, if there was one bank chartered, there ought to be several! The genius of the British monarchy, he said, favored the concentration of wealth and power! In America, the genius of the Government required the diffusion of wealth and power. The establishment of branches did not satisfy the principle of diffusion. Several independent banks alone could do it. The branches, instead of lessening the wealth and power of the single institution, greatly increased both, by giving to the great central parent bank an organization and ramification which pervaded the whole Union, drawing wealth from every part, and subjecting every part to the operations, political and pecuniary, of the central institution. But this restriction ties up the hands of Congress from granting other charters. Behave as it may—plunge into all elections—convulse the country with expansions and contractions of paper currency—fail in its ability to help the merchants to pay their bonds—stop payment, and leave the Government no option but to receive its dishonored notes in revenue payments—and still it would be secure of its monopoly; the hands of all future Congresses would be tied up; and no rival or additional banks could be established, to hold it in check, or to supply its place.

Mr. B. concluded his remarks with showing the origin, and also the extinction of this doctrine in England. A tory Parliament in the reign of Queen Anne had first granted an exclusive privilege to the Bank of England, and imposed a restriction upon the right of future Parliaments to establish another bank; and the Ministry of 1826 had condemned this doctrine, and proscribed its continuance in England. The charter granted to the old Bank of the United States and to the existing bank had copied those obnoxious clauses; but now that they were condemned in England as too unjust and

odious for that monarchial country, they ought certainly to be discarded in this republic, where equal rights were the vital principle and ruling feature of all our institutions.

There was now a call for the question; and, on division, the amendment was rejected, as follows:

YEAS.—Messrs. Benton, Brown, Dudley, Ellis, Grundy, Hayne, Hill, Kane, King, Marcy, Miller, Moore, Tazewell, Troup, Tyler, White—16.

NAYS.—Messrs. Bell, Buckner, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster—26.

Mr. BENTON's second amendment was as follows:

"That the stockholders in said corporation shall be liable in their individual and private capacities to the amount of their stock, if the said corporation should, at any time, fail or refuse to pay its notes, bills, bonds, obligations, drafts, or other securities, in gold or silver coin; and the holders thereof may sue said stockholders before any tribunal having jurisdiction thereof."

This provision, said Mr. B., is copied from the charter of the famous Scottish banks, which are now considered as the models of all good banks; and the good effects it has produced in those institutions should encourage all others to assume it. The provision is founded in the just medium between the common law principle of partnerships, which makes each partner liable for the whole debts of the concern, and the corporation principle, which absolves each partner from all liability. Each of these extremes was equally unjust in a banking institution. The liability of each stockholder for the whole debts of the corporation, would always be unjust with respect to himself, and nugatory with respect to the public; the total exemption from all liability was unjust to the public, as stockholders might continue to live in affluence, while those who held their notes might be reduced to beggary. Liability to the amount of the stock was the true principle, and, besides being just in itself, was a principle of easy application; as the holders of the notes, on the failure of the bank, could immediately bring their actions against any stockholder, and continue to recover from him until he had paid up the amount of his stock.

But the fact was, that, where this principle prevailed, there was no occasion to enforce it. It was the true check and control over the banks; the effectual restraint upon over-issues. The Scottish banks, which contained it, had never stopped payment; the Bank of England, which did not contain it, had twice stopped. It was the true security, and the only one, against sudden expansions and contractions of the currency—those ebbs and flows, in which there is a deluge of paper to-day, and everybody runs in debt, and a dearth of paper to-morrow, and all debtors are ruined. The presence of such a provision prevents the bank from running the risk of these expansions and contractions, and keeps it to the same steady line of business which prudent merchants and traders follow. It was the best of remedies for the evils to which banks were most subject; it was the remedy of prevention! for wherever it existed, it had prevented over-issues, and suspensions of specie payment. Foreigners alone could not be reached by the provision, as their residence in foreign countries would protect them against suits; and this formed an additional argument against the admission of aliens into this corporation.

The question being taken on this amendment, it was also rejected—yeas 6, nays 34.

Mr. BENTON's third amendment was then read:

"That, from and after the 1st day of April, 1836, no member of Congress, or officer of the Federal Government, or alien, shall hold any stock in said bank."

Mr. BENTON said, it was from no illiberal prejudice against foreigners that he proposed to exlude them from an interest in this national institution. If foreigners came to the United States to live, and to plant their posterity among us, he was for receiving them with kindness and respect, and extending to them all the advantages of our laws and Government; but while these foreigners remained in their own countries, subject to a foreign prince, and bound by their allegiance to him to prefer his interest to ours, whenever they came in conflict, he was wholly opposed to conferring upon them powers and privileges which would enable them to exercise an influence over our prosperity, and to engross advantages which our citizens would rejoice to possess. This bank is called a national institution; it even bears the name of the United States, as if it actually belonged to the Federal Government: yet at this very moment foreigners hold eight and a half millions of the stock, are rapidly increasing their investments in it, and may, if they please, become its sole owners! How contradictory and absurd that a national institution should belong to aliens! That a bank bearing the name of the United States, should, in fact, be the private property of the nobility and gentry of Great Britain!

Money is called the sinews of war: what then must be the condition of the United States, if, involved in another war with Great Britain, all these sinews should be in the possession of the enemy? But, without extending our speculations to a state of war, which may be remote, and which we would wish to be improbable, it is sufficient to contemplate the dangers of a foreign moneyed influence among us in time of peace. What has been the bane of all confederacies, ancient and modern? Was it not foreign influence, and that influence procured by money? Look at the intrigues of

Philip in Greece; look at the intrigues of the neighboring powers in the affairs of the Dutch, the Swiss, and the Germanic confederacies; money was at the root of all these intrigues; and the arrival of armies was always preceded by the corruption of orators and writers. Suppose the Bank of the United States to continue to glide into the hands of foreigners until it is swallowed up, or nearly swallowed up, by the hereditary nobility, the prime ministers, and the military and naval officers, of European sovereigns; will not this foreign aristocracy then have the control of the moneyed power of our America? And will they not use that power to raise up an American aristocracy, and to depress the American democracy? Assuredly they will; and, as the charter now stands, they may not only use their own money, but the credit and revenues of the United States, to corrupt the press and the legislature, to govern elections, to tamper with individuals, to enrich and to impoverish whom they please, and to put up and pull down public men according to their own views.

There is no excuse for incurring this danger. Foreign capital is not needed in the United States. Our own citizens have more than they can employ; and, besides, the Bank of the United States needs less private capital than any other bank in the world. The credit and revenues of the United States, and the receivability of its notes in payment of public dues, are its real capital, and diminish the want of private capital throughout the institution, and totally dispense with it in one-third of the branches. This is known to everybody. Then, why go abroad for foreign capital? Our own citizens are applying for this charter; they are offering five times as much for it as these foreigners offer; then, why continue the monopoly to foreigners? If the capital of the bank was three times what it is, every dollar of the stock would be taken by our own citizens. If the present bank was broken up into three independent moderate institutions, the citizens of the South and West would quickly subscribe for one bank each. Besides the dangers of foreign influence, and the injury to our own citizens, from permitting foreigners to continue to hold stock in this bank, Mr. B. dwelt considerably on the injury which was done to the country from the annual transfer of money from the United States to Europe, to pay the dividends to the foreign stockholders. The amount now annually drawn was great; it was on the increase, for aliens were continually engrossing stock; it might amount to the whole annual profits of the bank, for aliens might succeed in acquiring the whole stock; and then the American citizens might pay a larger revenue to their bank lords in Europe than to their own Government in the United States. The annual profits of the bank now were between four and five millions of dollars; they might be carried up to double that sum, and doubtless would be under the new and extended charter; and then the people of America would find their resources in the hands of absentees, to be expended abroad for the enrichment of foreign States.

The exclusion of members of Congress, and officers of Government, from participation in the bank, was necessary, in the opinion of Mr. B., to the purity of the Government, and to the better administration of the affairs of the bank. One of the most baleful operations in a national bank was the business, or trick, of stockjobbing. It was a species of gambling, in which public measures were made to operate upon private fortunes; a system of putting up and pulling down, in which a motion in Congress, or piece of news from a department, would have the effect of raising or depressing stocks, and throwing bargains and speculations in the hands of the initiated, at the expense of *bona fide* holders. Public men should have no temptation to engage in such practices, and therefore, should have no interest in the bank. Again: the bank is to be under the supervision of Congress; it has a right to investigate its proceedings, to condemn its conduct, and to order a *scire facias* against it for violations of its charter. Is it to be supposed that this supervisory power will ever be exerted if Congress is filled with the stockholders of the bank? The evils of this connection between the officers of the Government and the bank, have been fully experienced in Great Britain, where members of Parliament had, by a clause in the Bank of England charter, a right to own its stock, and where they had always voted on the side of the bank against the people in every question between them. In 1797, they had absolved the bank from liability to redeem its notes in specie, and afterwards made the notes of this insolvent bank, that is to say, their own notes, a legal tender in discharge of all debts, and continued that iniquitous law for twenty-five years. To guard against such dangers in America, we should avoid the cause which led to them in England, and exclude our public functionaries from all interest in our bank.

The vote was then taken on the amendment, when it was rejected—yeas 11, nays 33.

Mr. BENTON's fourth amendment was as follows:

"That the said corporation shall not issue any currency which shall not be payable, on demand, at the branch bank where first issued, and subject to the penalties for non-payment, or delay of payment, mentioned in the seventeenth section of the charter."

Mr. BENTON remarked that he had proposed this amendment to test whether it was intended to make the bank a specie-paying bank, or the contrary. He would ask the yeas and nays.

The amendment was lost, by the following vote:

YEAS.—Messrs. Benton, Brown, Dudley, Ellis, Grundy, Hayne, Hill, Kane, King, Mangum, Mar-

cy, Miller, Moore, Tazewell, Troup, Tyler, White—17.

NAYS.—Messrs. Bell, Clay, Clayton, Dallas, Dickerson, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—27.

MONDAY, June 4.

Bank of the United States—Recharter.

The Senate proceeded to consider the bill to modify and continue the act to incorporate the subscribers to the Bank of the United States.

The question being to concur in the amendments made in Committee of the Whole; and the first amendment, striking out the third section of the bill, being under consideration,

Mr. HAYNE said that the special committee by whom the bill was introduced had thought it advisable to put a check on the practice which had grown up of circulating bank orders as currency; and also to restrict the issuing of notes not payable at the office where issued. The bill, as now reported, would not effect these objects. The third section, which it was proposed to strike out, enacted that it should not be lawful for the bank to issue or put into circulation notes of a less amount than $50, which would not be payable at the office where issued, "except the same be done at the instance and request of the persons to, or for whom the notes shall be issued." He thought that this section was absolutely necessary, with the exception of the last clause, which had a nugatory effect. He would, therefore, move that the Senate only concur in striking out the last clause, retaining the first part of the section.

Mr. BIBB rose to submit a motion. He proposed that the first part of the original section should stand, and to amend it by enacting that the bank, in lieu of a bonus, should, during the continuance of the charter, make loans and discounts at a rate of interest not exceeding five per cent. per annum. In advocating the policy of the measure, Mr. B. expressed himself against the payment of a bonus by the bank. He would dispense with it altogether, for two reasons. He was disposed against the United States selling out privileges: if the bank was necessary for the operations of Government—the creation of such an institution requisite—the United States should take no money from an agent thus indispensable. And again, he was adverse to putting more money into the Treasury than exigencies called for; and he was sorry to say there was every fear of our revenue being too abundant.

But, inasmuch as benefits will arise to the institution thus created, from the exclusive privileges and franchise with which it will be invested, the benefits thus resulting will justify the corporation being called on to give corresponding benefits to the country; and in no way could the country at large be more benefited than in a reduction of the interest on money. It would facilitate trade, and improve and increase the productive labor throughout the Union. And, considering the high advantages which the stockholders gained from their property being thus invested, affording them profit and value without expense or trouble on their part, exceeding that of private individuals in any other business or trade, he thought that a reduction of one per cent. would be but a small equivalent.

Mr. EWING opposed the proposition of the gentleman from Kentucky, (Mr. BIBB.) It would not have the effect which was contemplated, of lowering the interest of money throughout the country. This must be left to its own operation; the value of money would rise or fall according to its productions; it must be left to find its own level. In the State of New York, the Bank of the United States was limited, as elsewhere, to six per cent. interest, and yet the State banks were charging seven per cent. It could not effect the benefit that was promised to the whole country, because, let the bank lower its interest to five per cent., its capital is not large for the whole circulation of the country. He would vote against the gentleman's proposition.

Mr. BUCKNER also opposed the measure; and the question was not decided when the Senate adjourned.

TUESDAY, June 5.

Bank of the United States—Recharter.

The Senate resumed the consideration of the bill to modify and continue the act to incorporate the subscribers to the Bank of the United States.

The question pending being on the motion to strike out the clause providing for the bonus, and to insert a provision that the interest on loans and discounts made by the bank should not exceed five per cent.,

Mr. CLAYTON gave the reasons which induced him to vote against the provision to amend. His own opinion was, that, if the amendment prevailed, it would prove injurious to the bank, to the State banks, and to the people of the country. Some gentlemen seemed to think that the reduction of the rate of interest would be highly beneficial to the bank, by increasing its profits. The bank had always had the ability to discount at five per cent.; and, always having the ability, if it was so advantageous, why had not the directors resorted to the practice of making loans and discounts at five per cent.? The astuteness of those who administered the affairs of the bank had never discovered what seemed to have been so suddenly found out here. He thought that those whose duty it was to protect the interests of the stockholders, had taken this subject into consideration before now, and had given to it a proper examination. He was not disposed to

legislate on this bill, merely for the benefit of the bank, but he still thought that the institution was entitled to some consideration, because it was the instrument of the Government for great national objects, which would be defeated if its interests were entirely overlooked. If the Senate, however, looked to the interests of the bank alone, the present motion could not be sustained. It would go to change the whole system of the banking operations, and such change was not required by public opinion. In not one of all the numerous memorials which had been presented to the Senate, was there any request to reduce the rate of interest. Neither in any of the memorials from the State banks, nor in those from the people, had the subject been touched. There had not been a single indication of public opinion that such a change was desired; and no one but the mover of the proposition attached the slightest importance to the idea. Most of the State banks, and especially those which stood on the most solid basis, had presented themselves to the Senate in favor of the bank. Let this amendment prevail, and twenty days would not elapse before the same banks would send on memorials against the passage of the bill. The operation of the measure must, in some measure, be to reduce their profits, and compel them to curtail their business. The hostility of all these institutions would be enlisted against the bank, and that hostility would be felt on some future occasion. The banks would still continue to lend money at an interest of six per cent., and favorite borrowers would obtain loans at five per cent., and lend them out again at six or seven per cent. There could not be a worse proposition than to fix the interest at five per cent., since it would array all the State banks against the institution.

Mr. TYLER said the more he had reflected on the proposition now before the Senate, the more he had been impressed with its importance and magnitude. He would go so far as to say that, in his opinion, it was second to but one which had engaged the attention of Congress during the present session. He believed that while the adoption of the proposed amendment would inflict no injury upon the bank, it would confer the greatest benefit upon society. Would it impose an unjust limitation on the bank? If it would, he would abandon it altogether; for while he could not vote for rechartering the institution, he would not infuse a secret poison into its vitals, which would affect its capacity to do good. It asked a prolongation of its existence, and Congress should take care to engraft upon its charter such provisions as would benefit the community.

The first reflection which occurs, is, that the bank does not loan money. It merely exchanges credit. It gives its notes of hand for the notes of hand of individuals, and, paying no premium in the form of interest itself, requires a premium of the individuals with whom it deals. Its credit is founded on the confidence of the public in its capacity, which confidence is the result of the governmental action in its creation. This remark applies to all incorporated banks; but another circumstance exists in regard to this bank, which extends its control throughout the mercantile world—the fact of its notes being made receivable everywhere in payment of the Government dues. However solvent an individual may be, his notes will not pass currently beyond a small neighborhood circle. He is, therefore, under frequent necessity of adopting the bank credit or notes for his own credit or notes, and of giving a premium in the form of interest, when, in fact, his solvency is as perfect, his responsibility is as entire, to the extent of his undertaking, as that of the bank, to the extent of its engagements. True, the bank is liable to be called upon to redeem its notes daily; but the fact that its issues exceed its capital twice or thrice, shows that that responsibility is remote and inconsiderable. Is then five per cent. enough to compensate the bank for this exchange of its credit for the credit of individuals? Can any one doubt it? Take a beggar in the streets, and let the Government announce its determination to receive his notes in the payment of its dues, amounting as they do to from $25,000,000 to $30,000,000 annually, and who doubts but that the credit of the beggar would be sought after with avidity, and that he would speedily be enriched if he was permitted to receive a premium greatly below five per cent. Who can doubt but that five per cent. is an ample allowance? The stock is at this moment, when there hangs over the institution some doubt as to the continuance of its existence, twenty-five per cent. above par; and the very day after its new charter shall have passed, the calculation is that the stock will run to from $150 to $200 per share. What is more conclusive than this, to show the immensity of its profits? And this, too, although it has to sustain out of its profits countless numbers of officers and dependents. This regulation, then, cannot be considered unjust to the bank.

Its effects on the community would be decidedly beneficial, as I shall attempt presently to show, and would, therefore, tend greatly to increase the popularity of the institution; an effect of the highest importance to the institution. A suggestion has been made, that it would concentre its loans in the hands of the few. All that I can say in reply is, that, if it did so, it would act injudiciously. In my opinion, it should diffuse its loans as much as possible, consistently with a just regard to its interests. Extravagant loans to a few would weaken it in the estimation of the public, and abridge its usefulness.

What would be the effect of this measure on the community? This is the important inquiry, since the institution should be created for the public interest, and not the good of a few, exclusively. The first effect would be to lead the State banks to adopt a similar regulation; in no other way could they move on har-

moniously with this bank. The argument ventured in this debate, that this regulation would place this bank at the mercy of the State banks, is ideal. The State banks, on the contrary, hold their existence but at the pleasure of this; and who can doubt but that an arrangement would readily be forced upon those banks to receive, in the settlement of balances with this bank, the same interest which it would receive of them?

The next effect would be to induce the Legislatures of the different States to reduce the rate of legal interest to five per cent.; of this I have no doubt. I have not had time to trace out the causes of the change in the rate of interest which occurred in Virginia, but I incline to believe that it was consequent upon the chartering of the first United States' Bank. Before that, it was at five per cent.; it was changed to six per cent., and the first bank was authorized to receive that amount; and now we come to the important influence which a reduction in the rate of interest would have upon the great interests of the community.

It is this view which imparts to this subject its greatest interest; and it rests upon plain principles of political economy. Where money converted into public stocks or individual loans yields a higher profit than the same money invested in lands, ships, or machinery, agriculture, commerce, and manufactures necessarily become neglected. If money put at usance breeds higher profits than the loom, the ship, or the land, then capital is withdrawn from these less profitable employments, and seeks investments in the public stocks or individual loans. This can admit of no doubt. In this, then, consists the true secret of giving activity to the industry of a community. If the profits from agriculture, commerce, and manufactures, be equal to the profits on loans, then do these employments invite the attention of mankind, and each in its turn puts forth all its energies. Commerce takes new wings, agriculture develops all her beneficent faculties, and the arts are made to flourish. Hence the vital importance of laws regulating the rate of interest; without them a nation soon becomes a nation of money lenders; and that which was designed as a mere medium through which agriculture, commerce, and manufactures should carry on their exchanges, is converted into the instrument of their greatest oppression.

The great lawgiver of the Jews understood this most perfectly. The Israelites had just entered upon the possession of the promised land. It was every way desirable that the land should be reclaimed, and its faculties developed, and hence the regulation that no Israelite should take usance of an Israelite. Capital could thereby be profitably invested, both in the culture of the earth and in commerce, and the land of Galilee repaid most abundantly the laborer. But when these influences had ceased to operate, and the tribes were scattered over the face of the earth, the Mosaic regulation which permitted usance to be taken of strangers, aided by the oppressions under which they labored, converted the Jews into a nation of money lenders. I mention not this to their discredit. They are like all the rest of the human family, no better and no worse—devoting themselves to the acquisition of money, and seeking for their money such investment as yields the greatest return. Into the same condition may the people of any country be changed. Only make the profits on loans high enough; if six per cent. would not do, take ten; and if ten will not do, take twenty; in other words, make it more profitable to the capitalists to loan out their money, than to invest it in lands, ships, or machinery, and the work is accomplished. Government will have converted the community into a NATION of money lenders.

These considerations led him to oppose his vote to all moneyed corporations; but while he felt himself constrained to vote against the rechartering of this bank, if it is to pass, he wished to protect the other interests of the community against evil. The per centage proposed to be allowed is greater than that derived from agriculture, but the contemplated reduction will relieve it in some small degree of its burdens, and should therefore have his support; and its reasonableness is fully evidenced by the fact that the capitalists of other countries send their funds here to be invested in stocks yielding no greater interest than five per cent.

Mr. FORSYTH called for a division of the question, so as to take the question first on striking out. He wished to move an amendment, and he should therefore vote against striking out. He thought five per cent. would be an ample compensation to the bank, because it was equal to six per cent. in 1816, when the bank was rechartered; so that it would be giving as much. Another reason was, the bank stock is now at 120 to 130, so that it was enough above par to justify the reduction of interest. A proposition from Boston was before Congress, offering to give more favorable terms for a bank; they offer to reduce their interest to five per cent., and he saw no reason to allow the present institution six per cent.

The mind of Hamilton fluctuated between five and six per cent.; and he read extracts from his report, to show that the only fear of Hamilton was, that a limitation of the interest to five per cent. would prevent capitalists from embarking their capital in the bank. He had none of the fears which now affect Senators who oppose the reduction. It was apprehended that the change would be injurious to the State banks and the community. He referred to the history of the banks of Georgia, to show that this was not likely to be the result. The amount of the bank capital being so large, the effect of the reduction of interest on that capital would be felt throughout the country. He denied the applicability of the statement of the Senator from Delaware that the State banks would be compelled to increase the amount of

their issues. He stated that the interest on loans by State banks was, in many cases, now higher than that on loans by the United States Bank. The United States Bank had now the power to reduce the interest to favor any particular institutions or individuals, and had reduced it in some instances. He would vote against the striking out, and would afterwards move to add a provision reducing the rate of interest to five per cent.

On the call of Mr. BIBB, the yeas and nays were ordered.

The question was then taken on the motion to strike out, and decided as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Dudley, Ellis, Grundy, Hayne, Hill, King, Mangum, Marcy, Miller, Robinson, Smith, Tazewell, Troup, Tyler, White—18.

NAYS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Forsyth, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Moore, Naudain, Poindexter, Prentiss, Robbins, Seymour, Silsbee, Sprague, Tipton, Tomlinson, Webster, Wilkins—26.

So the motion to strike out was negatived.

WEDNESDAY, June 6.

Bank of the United States—Recharter.

The Senate resumed the consideration of the bill to modify and continue the act to incorporate the subscribers to the Bank of the United States.

The question pending being the motion of Mr. SPRAGUE to strike out the sum of "150,000" as the annual amount of the bonus required of the bank,

Mr. MARCY regretted to hear honorable Senators speak of so small a sum for a bonus as one hundred and fifty or two hundred thousand dollars. He was fully persuaded that the stockholders of the present bank could afford to give a much larger sum. It seemed to be agreed on all sides that these stockholders are not entitled to any preference. They have no right to ask any favor, and we are under no obligation to grant any. He was not disposed to drive a bad bargain with them, nor would he consent that they should make an unconscionable one with the Government. The question then presents itself, what is a renewal of the charter worth to the applicants? He would not repeat what was said on this subject yesterday; but the Senate will recollect that they had a proposition before them from the citizens of Massachusetts, which will yield a much larger sum than that now generally spoken of. The respectability of those from whom the proposition came, had not been, and cannot be, questioned. Those memorialists are, beyond all doubt, of sufficient ability to set in operation, by the time the present charter will have expired, an institution that will answer all the useful purposes of the one now in existence. They offer to pay to the Government one per cent. on the capital, and to become subject to taxation by the States to any sum not exceeding one per cent. It is not to be doubted that the States would tax nearly up to the limit. The offer from the citizens of Massachusetts would therefore amount, on the capital mentioned in the bill, to seven hundred thousand dollars. Though this offer may not be conclusive evidence of the precise sum which ought to be paid for the extension of the charter, it is entitled to much consideration in fixing that sum.

The present price of the stocks is also an evidence of the worth of the privilege about to be granted. If it were certain that no extension of the charter would be granted, the price of the stock would soon decline; and, on the other hand, if a charter were actually secured to the company, it is an opinion which no one controverts, that there would be a sudden rise in the stocks. This event would probably bring it to fifty per cent. premium.

Such is the estimate of the most enlightened friends of the present bank—of those who best know the situation of its affairs, and are therefore best qualified to form an accurate judgment on the subject.

To show that there is no error on this subject, he (Mr. M.) said he would take the liberty to refer to the opinion of an honorable Senator from Kentucky, (Mr. CLAY,) as expressed in a speech delivered some time since, in this body, on the subject of the tariff. In animadverting on that part of the report of the Secretary of the Treasury wherein the Secretary proposed to sell the seven millions of stock now owned by the United States for eight millions, it will be recollected that the honorable Senator from Kentucky observed that it would be unfair to make a sale at that advance, if the bank was not to be rechartered; for, said, he, the stock would not be worth but about par without a renewal of the bank; but he contended that, if the bank was to be rechartered, the sale of the seven millions of stock owned by the United States for eight millions would be a most improvident contract on the part of the Government; for, in case the bank should be rechartered, the price of stock, he observed, would advance to fifty per cent. above its par value. Here we have, said Mr. M., an opinion of a friend of the bank, well acquainted with its affairs, and every way competent to form an accurate opinion of the effect to be produced by the measure now under consideration, that, without a renewal of the charter, the stock of the bank will settle down to par; with a renewal, it will command a premium of fifty per cent. By this act, then, said Mr. M., we are about to enrich the present stockholders, according to this opinion, seventeen million dollars. What is it proposed we shall ask for this favor? Only one hundred and seventy-five or two hundred thousand dollars per annum. This is a remuneration wholly inadequate to the advantage we are about to bestow. The smallest

sum we ought to think of inserting in the section, should be that named yesterday by the Senator from Maine, ($525,000.) Mr. M. said he did not go for so large a sum as that offered by the memorialists from Massachusetts, because a part of that sum was to be levied by the States as taxes; and he would not give any vote from which it might be inferred that the right of the State to tax the bank and its branches was intended to be surrendered or compromised; for in his opinion the States have that right, and Congress should not, if they could, and probably could not if they would, take it away.

Mr. MARCY moved to fill the blank with 525,000.

Mr. KNIGHT then renewed his motion for 350,000.

Mr. BROWN said he should vote against the largest sum, because he did not see any advantage which would result from it to the country. In proportion as the bank was burdened, would the bank burden the people by excessive issues. He would not incorporate such a principle in the charter.

Mr. MOORE should vote against the largest sum, because he believed the States had a right to impose a tax, and would exercise it, as soon as the branches were established. He would therefore vote for the smallest sum.

The question was then taken on the largest sum, and decided in the negative—yeas 10, nays 36.

The question was then taken on the motion of Mr. KNIGHT to fill the blank with 350,000, and also decided in the negative—yeas 20, nays 27.

Mr. SEYMOUR moved 300,000; and the yeas and nays being ordered, the question was decided—yeas 20, nays 27.

The question was then taken on the motion of Mr. FOOT to fill the blank with 200,000, and was decided in the affirmative as follows:

YEAS.—Messrs. Bell, Benton, Brown, Buckner, Chambers, Clay, Clayton, Dallas, Dickerson, Ellis, Ewing, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Hendricks, Hill, Holmes, Johnston, Kane, King, Mangum, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tazewell, Tipton, Tomlinson, Tyler, Waggaman, Webster, White, Wilkins—43.

NAYS.—Messrs. Dudley, Knight, Marcy, Troup—4.

Mr. MARCY moved to amend the bill by introducing a proviso that nothing herein contained should be construed to take away the right of any State to impose any taxes on the branches, &c.

The question was decided as follows:

YEAS.—Messrs. Benton, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Robinson, Tazewell, Tipton, Troup, Tyler, White—22.

NAYS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Smith, Sprague, Tomlinson, Waggaman, Webster, Wilkins—25.

The next amendment of the Committee of the Whole restricting the bank from issuing notes below the value of twenty dollars, was then taken up.

Mr. KING moved so to amend the amendment as to make the minimum ten dollar notes.

The motion was negatived.

Mr. TAZEWELL moved to amend by striking out "or drafts," so as to confine the restriction to notes or bills.

The amendment was then concurred in.

Mr. FORSYTH moved to amend the bill by adding a section, providing that the bank shall not take more than five per cent. on its loans or discounts.

Mr. CHAMBERS made a few remarks in opposition to the motion, and read the opinions of some experienced cashiers against the reduction of interest.

The question was then taken, and the motion negatived as follows:

YEAS.—Messrs. Benton, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Hill, Kane, King, Mangum, Marcy, Moore, Robinson, Tazewell, Tipton, Troup, Tyler, White—21.

NAYS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Knight, Miller, Naudain, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Smith, Sprague, Tomlinson, Waggaman, Webster, Wilkins—26.

Mr. WHITE moved to amend the bill by providing that whenever the average amount of the public deposits shall exceed a million of dollars, an interest of three per cent. shall be allowed.

This motion was negatived, as follows:

YEAS.—Messrs. Benton, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hendricks, Hill, Kane, King, Mangum, Marcy, Moore, Seymour, Sprague, Tazewell, Tipton, Tyler, Troup, Waggaman, White—23.

NAYS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Knight, Miller, Naudain, Prentiss, Poindexter, Robbins, Robinson, Ruggles, Silsbee, Smith, Tomlinson, Webster, Wilkins—24.

Mr. BENTON said the time had now arrived for making a motion which he had previously announced, namely, the reference of this bill to the head of the Treasury Department, for his consideration and report. The bill had now received all the amendments which its friends would admit: it was perfect, according to their conception; it was, therefore, in a proper state to undergo the revision of the officer with whose department it was so intimately connected. He said that this was a motion of legislative propriety, of official courtesy, and public advantage; a motion which could not be refused without a seeming disrespect to the

officer at the head of the Treasury—an apparent disregard to the Executive Administration—and a possible detriment to the public service. Every bank charter ever yet granted, or proposed to be granted, had its origin in the Treasury Department. Every bank bill had been drawn or revised there; and that upon the plainest principle of propriety, that the bank being intended to aid the Treasury, it was for the Secretary of the Treasury to give his opinion upon the fitness and sufficiency of the aid to be given him. How, then, can the present Secretary be overlooked? How can he be passed by? Why should he receive a slight which has been put upon none of his predecessors? His individual sentiments are known to be favorable to a national bank; his public station gives him a right to be heard on the provisions of this one; the public service, we have a right to presume, would be promoted by the communication of his opinions. Who can assume to say that he can impart no useful information? Even if gentlemen thought so, it would be a breach of decorum to express, or imply, the sentiment. Yet a refusal to make this reference must imply it.

If there is any one measure, in the whole circle of legislation, which, above all others, deserves to be referred to an Administration, it is the measure of creating, or continuing, a national bank. The whole argument for such an institution—its entire constitutional vindication—rests upon the assumption that it is necessary to the financial operations of the Government. Now, of this necessity, the persons chosen by the people to administer the Government must be admitted to be, in some degree, judges. Some may deem it unnecessary, as did Mr. Jefferson all his life, and as did Mr. Madison before the capitol was burnt. Some may think one kind of bank necessary, and some another. Then why not consult the persons to whom this institution is assumed to be necessary? Why not consult the present Government? The people have put them in power; they are responsible to the people for the operations of the Government; then why not allow them a voice in the selection of their means? Instead of that, we have seen this measure taken up by the adversaries of the Administration, conducted along without any reference to the Administration, and now proposed to be put upon its third reading without even their knowledge! It is easy to conceive that the bank may be an impediment to some Administrations; it may join their adversaries, lend them the benefit of its vast moneyed power, and exert its machinery in all the States in promoting the election of opposition candidates. This very bank may be an enemy to the present Administration, and, uniting with all the elements of opposition in Congress, may now be exerting its tremendous influence to keep up a system of double taxation and enormous expenditure, to supply itself with immense deposits of public money. It may be the most formidable enemy to the present Administration, and, instead of aiding, may be paralyzing all their measures, even the payment of the public debt, in order to keep the public money for its own use. It may be in favor of a new Administration which would keep up taxes, multiply expenditures, and gorge it with public money. These things may, or may not, be so; but why not let the Administration speak for itself? Why force this aid upon them? Why compel them to receive help of the bank? Certainly it is a long time that the world has been admonished to beware of favors offered by the enemy! This bank is the only favor offered to this Administration by its opponents; and this favor they require it to take without examination, and without inspection. They avow their determination to pull down this Administration; and they propose to give them this bank as a friendly present! Since the days of the wooden horse, has any present ever come forward in a more questionable shape? And this kind aid comes on the eve of a life and death contest between the giver and receiver! Some have said this push for a new charter is not a party measure, but thus far it has been characterized by every circumstance that defines a party measure; and this determination to carry it through, without a reference to the Administration, seems to complete the evidence of that character.

Mr. SMITH said, in high party times, when a motion was made to refer from Congress to the Secretaries, the democratic party resisted it, and he had never heard of a similar motion since.

The question was then taken on Mr. B.'s motion and decided as follows:

YEAS.—Messrs. Benton, Brown, Dudley, Ellis, Forsyth, Grundy, Hill, Kane, Troup, White—10.

NAYS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Dickerson, Ewing, Foot, Frelinghuysen, Hayne, Hendricks, Holmes, Johnston, King, Knight, Mangum, Marcy, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tazewell, Tipton, Tomlinson, Tyler, Waggaman, Webster, Wilkins—37.

The question then being on the engrossment of the bill for a third reading,

Mr. WHITE rose to give his views in opposition to the bill; when

Mr. GRUNDY moved that the Senate now adjourn; and it being understood that no further amendments were to be offered,

The Senate, at 20 minutes before 6 o'clock, adjourned.

SATURDAY, June 9.

Bank of the United States—Recharter.

The Senate then resumed the consideration of the bill to modify and continue the act to incorporate the subscribers to the Bank of the United States.

Mr. BENTON resumed the remarks, in opposition to the engrossment of the bill, which he commenced on the preceding day. He stated that the establishment of the United States Bank had been followed by injurious consequences to the South and the West; and to prove this, he adverted to the instructions issued by the bank to the branches of the South and the West. He quoted the language of a distinguished statesman, that the year 1816 would constitute an era, that it was the most disastrous period in our history, as it had given birth to those twin monsters, the bank and an ultra tariff. He considered the bank and tariff as one and indissoluble; and held that the death warrant of the South and West had issued from the institution when the circular instructions were sent abroad. He characterized the Board of Directors as a central power, acting and deciding in secret, and whose decisions were only known by their disastrous operation on the community.

The question was taken on the engrossment of the bill for a third reading, and decided in the affirmative, as follows:

YEAS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Prentiss, Robbins, Robinson, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—25.

NAYS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Tazewell, Troup, Tyler, White—20.

MONDAY, June 11.

Bank of the United States—Recharter.

The bill to modify and continue the act to incorporate the subscribers to the Bank of the United States was read a third time.

The question being on its passage,

Mr. WEBSTER asked for the yeas and nays on this question, and they were ordered.

Mr. MANGUM then spoke briefly in exposition of the reasons which would compel him to vote against the passage of the bill.

The question was then taken, and decided as follows:

YEAS.—Messrs. Bell, Buckner, Chambers, Clay, Clayton, Dallas, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—28.

NAYS.—Messrs. Benton, Bibb, Brown, Dickerson, Dudley, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Tazewell, Troup, Tyler, White—20.

On his name being called,

Mr. DALLAS said that, being called to vote on the passage of the bill, he felt it to be his duty to make a brief statement to the Senate. He had been returned to the Senate on the list of stockholders, as holding a part of the stock in the bank. As soon as he found that this subject would come in for discussion, he had directed the stock which he held in the institution to be sold. It had been sold, he had received the amount of the sales, and had no longer any interest in the bank.

On his name being called,

Mr. SILSBEE said that he perceived his name on the list of stockholders. He had disposed of his stock before this question came before Congress, and was no longer interested in the institution.

On his name being called,

Mr. WEBSTER said that he had seen his name on the list of the returns; but that the insertion was altogether a mistake of the clerk at the bank in Philadelphia.

The bill was then passed and sent to the other House.

Indian War—Volunteers.

On motion of Mr. WEBSTER, the Senate proceeded to consider the message of the House of Representatives, communicating the amendment of that body, authorizing the President of the United States to receive into the service of the United States volunteers, for the protection of the Northwestern frontier, not to exceed ten companies.

Mr. CLAY withdrew the motion which he had made to recommit the bill.

Mr. TIPTON rose to move some amendments which he thought would obviate the difficulty that had arisen. He said the bill now before the Senate, as amended by the House, provides for raising one thousand gun men to protect the Northwestern frontier against the Indians. He would have been satisfied with the bill as it was, for he was anxious to stop the effusion of blood, and the destruction of property, in the frontier country. Some Senators object to the number of men to be raised, some to their term of service, and others to the discretionary power vested in the President. On a former occasion he had stated that five hundred men were competent to the service, if led by an officer suited to the occasion. This was still his opinion; but, yielding to the wishes of the Representative from Illinois, for whose opinion he had great respect, he had left the number blank. Some Senators have said to the friends of this measure, agree among yourselves, and we will vote with you for any sum that is required. In order to settle this matter, and procure the prompt action of Congress, I now propose, said Mr. T., to amend the amendment, by asking for five hundred men, to serve one year, to be commanded by one major and a suitable number of platoon officers, to be appointed by the President, by and with the advice and consent of the Senate. He had no fear of the discretionary power vested in the President. The President knew too well what was due to a suffering people, and to his own fame, and he had given too many pledges of fidelity to his

country, now to err in regard to conducting an Indian war. Pass this bill with the amendment, and, in thirty days from the day the President signs it, a sufficient force will be on the frontier, and of that description of troops that will inspire confidence in our people, and enable them to return with their families to their former homes. This number of men is amply sufficient to keep peace, and the presence of an armed force is at all times necessary to awe those Indians into submission.

An Indian has no love for the American people. The missions, the teachers, and the preachers sent to them, have not civilized them, nor will the long prayers made, nor the hypocritical hands holden up in our Eastern cities in behalf of the poor Indians, have much effect in warding off the scalping knives from our heads. To explain the cause of his anxiety on this subject, Mr. T. read a letter from Major Brown, dated May 30th, stating that General Walker, with four hundred men, had gone out. General Walker, said Mr. T., is a brave and active young man: his followers are united to the service; while they are out, the frontiers will be protected. But these men live by their own industry, and cannot remain long in the field, and, when they return, more murders will be perpetrated.

Those who have not lost their lives have lost their property, and the opportunity of making bread for this season. Another letter informed him that there was not bread enough in the country to serve the people ten days. The Indian has struck his blows, and will lie close and conceal himself until our militia return from their expedition.

At the approach of autumn, when the settlers, driven by necessity, return to recover their property, and to put in winter grain for the next crop, unless we have an armed force there, this war will be renewed.

And, sir, said Mr. T., will you then expect us to renew this application next year to Congress with another mournful list of murders? If you do, you are, perhaps, mistaken. Let me tell you what will be done!

There are about five thousand one hundred Indians in Indiana, and in Illinois eight thousand six hundred: we are neighbors, cannot agree, and are now at war. You must separate us by removing these Indians out of these States, or you may be sure, sir, that we will exterminate them. From this war, and this danger, the Menominees and a part of the Pottawatamies are exempt. If you will send the force which we want, it can, if under judicious officers, protect the white people and the friendly Indians until all the Indian tribes are removed from our vicinity.

Mr. HENDRICKS was in favor of the amendment by the Senator from Indiana, and had a few words to say, chiefly applicable to filling the blank, should the amendment proposed be adopted. The bill, as it originally passed the Senate, proposed the mounting of a corps of infantry for the protection of our inland frontier. It had no reference to the recent troubles of the Northwest, but had its origin in a belief, entertained for years past, that this description of troops was better suited to the service in that quarter than infantry on foot.

This bill had been modelled in the House of Representatives, in direct reference to the Indian war now raging between the Mississippi and Lake Michigan, and proposed as a substitute the raising of one thousand gun men, volunteers, corps organized, or to be organized, as the President might direct; to continue in service, or be dismissed from it, as his discretion might see fit. The amendments proposed, said Mr. H., look not so much to the present crisis, as to the permanent defence of the country, and contemplate a corps of mounted rangers on the model of those employed on the frontier during the late war. This latter purpose, said Mr. H., I approve, and believe the latter description of troops decidedly the best adapted to the service, and the most efficient that can be called into it. This was the testimony, he believed, uniformly given in favor of these corps during that war, from the frontiers of the Ohio to the Mississippi River. These troops were more active, energetic, more rapid in their movements, and as brave as any others that have heretofore ever been employed in the service. They were, indeed, citizen soldiers, having all the advantages of discipline, and all the interests of the country concentrated upon them. It was his opinion that so much better were these corps suited to the defence against Indians, that five hundred of them would be better than the one thousand proposed by the amendment of the House of Representatives.

Mr. BENTON stated that the bill introduced by the Senator from Indiana was under the consideration of the Military Committee, of which they would soon report. In order to gain information on the measure under discussion from the War Department, he would move that the bill, with the several amendments, be, for the present, laid on the table, and the information acquired he would communicate, if possible, on the following day.

The motion was carried.

TUESDAY, June 12.

New York Resolutions—The Tariff.

Mr. DUDLEY presented certain resolutions adopted at a meeting of citizens in the city of New York, recommending concessions on the subject of the tariff; and moved to lay them on the table, and print them.

Mr. WEBSTER said that these resolutions came to the Senate under the authority of the most respectable names. They were represented, and no doubt truly, to have been passed at a very numerous assemblage of citizens, called by

a notice signed by highly respectable names, and were introduced to the consideration of that assemblage by a speech highly proper for the occasion, by an able and most excellent man. But however commendable in their spirit and temper, the resolutions, he feared, were too general in their scope and character to be valuable guides through the arduous duties which lay before Congress. They recommend a spirit of accommodation, of conciliation, of compromise. Now this is exactly such a spirit, said Mr. W., as we all profess, ourselves, and as most of us, in my opinion, really and sincerely feel. But the question is a very complex one: it involves a deep and important principle, and it involves also very great difficulties of detail. If this most respectable meeting, or any other, could tell us what that is which could be given up, without ruin or extreme injury to those concerned, and which, if given up, would produce the satisfaction so much to be desired, they would, by so doing, render Congress a most useful service.

I entirely approve, said Mr. W., the spirit of these resolutions; I commend their spirit of kindness and conciliation; above all, I commend the attachment manifested by them to the great and paramount object of regard—the union of the States; but I am not quite willing that an opinion should be cherished abroad, that members of Congress, of any party, are wanting in a proper spirit of conciliation, or that what Congress most needs is a spirit of compromise. For his own part, Mr. W. said, he hardly failed to meet, at every turn, some gentleman who had a project for compromising all our difficulties. He thought there was no want of projects. In his opinion, the necessity of a steady system of policy; a regular adherence to what has been solemnly settled; a moderate but firm regard to the stability of property, to the maintenance of those means of living on which the various classes of labor depend; caution not to agitate great and numerous interests to their very centre, by ill considered, though well-intended efforts to allay excitement among other interests; these were topics, in regard to which, if in regard to any, Congress might be benefited by friendly admonition.

The resolutions were ordered to be printed.

THURSDAY, June 14.

Indian Wars in the Northwest—Early Expeditions—Rangers and Volunteers the successful Troops.

Mr. TIPTON wished to be informed whether the chairman of the Committee on Military Affairs had received any information to communicate to the Senate on the subject of the bill relative to the enlistment of mounted troops.

Mr. BENTON replied that he had been unable, in consequence of the absence of the Secretary of War, to obtain the information he had desired.

Mr. TIPTON then said, I consider it my duty to move the Senate to take up this bill, with the amendment made by the House. The question now is, will Congress vote us the means of defence or not? Denial is better for us than delay. If you will aid us, do it immediately; if not, say so, and we will do our own business in our own way.

Sir, we must sweep these people from existence, or keep them peaceable. The power to make peace, and to preserve it, and to preserve the Indians, is what I want. No one can imagine the distress that an alarm on the frontier produces, without witnessing it. Those who are at the point of attack, flee with their families; those next in the rear, though more secure, are not safe. No man can leave his own family to help his neighbor; and the consequence is, that they break up and desert their homes, taking little with them, and leave their property to be pillaged by the dishonest whites, as well as the Indians.

If you will authorize the raising of the corps which I propose, we can prevent these alarms, give confidence to the people, and check or destroy the hostile Indians.

The Senator from Illinois, (Mr. KANE,) when this bill was up the other day, asked who knew that this number, five hundred men, is sufficient.

Sir, all practical men know that five hundred men are sufficient to march to any point between Lake Michigan and the Mississippi. They will do it, with or without authority.

What is the extent of the Indian country? I will tell you: It is about one hundred and thirty miles from Chicago to Dixon's ferry—four short days' march for mounted rifle men. The real force of the Black Hawk's followers may be fairly estimated at seven hundred to one thousand warriors; that is, five hundred and fifty of his own tribe, two hundred and fifty Pottawatamies, and a few from other tribes. This force is not now dangerous, but to the defenceless frontier, and will increase every day until it is broken down. One energetic effort will crush it.

To oppose this man and his force, we are told that, on the 10th of May, twelve hundred and five men were within thirty or forty miles of this banditti. Why did these men not march on, day and night, and attack these Indians, if to be found? We are told that part of our men are infantry, and their baggage in boats. In these days of good living, men must have baggage, and, of course, live at their ease. I do not censure them for this. It is quite a satisfactory excuse in 1832; but, sir, in 1791, or 1814, what would have been said of sunshine soldiers? Let us recur, for a few moments, to days long gone by.

On the 23d of May, 1791, General Scott crossed the Ohio, at the mouth of the Kentucky, and marched from thence for Weeontonon, on the Wabash. It rained incessantly,

but he pressed forward, through an unbroken and unknown forest, crossed four large streams, the White Rivers and their tributaries, not in boats, but swam them on his horses, or on logs confined together—rafts; and, on the 1st day of June, he surprised the Indians at Weeantonon, now called Weea, killed some, and took fifty-eight prisoners. This town is one hundred and fifty-five miles from the Ohio, where he set out.

But this is not all. He was now two hundred and fifty miles from Lexington, the settled part of Kentucky, surrounded by the most numerous and warlike tribes that ever inhabited North America, then unbroken by defeat, not humbled and reduced by the wars that have since intervened, and not dispirited by the operations of our people, and ferocious as the native Indian is known to be. But General Scott had neither baggage nor boats to encumber him. Lieutenant Colonel Wilkinson was despatched with three hundred and sixty men to cross the Wabash, a large river, then much swollen with rains, to destroy the Indian villages at what they call the Eel River, now Tippecanoe.

Colonel Wilkinson marched on foot, crossed the river, surprised the Indians, destroyed the town, and returned with a loss of three men, wounded, having marched on foot thirty-six miles in twelve days, fought a battle, and burned a town. These men were Kentuckians, commanded by a man that could walk on foot, and swim a river.

General Scott then returned to Lexington, having marched four hundred and fifty miles, burned four towns, and killed many of the enemy, taken fifty-eight prisoners, and conducted his prisoners to Fort Steuben, now Jeffersonville.

In 1791, Colonel Wilkinson was ordered by General Washington to destroy the Indian villages on Eel River. They set out on the 1st of August from Fort Washington, now Cincinnati, with five hundred and twenty-three men. He marched two days north to make a feint on the Miami towns, then northwest; and he tells us that, on the 7th day, he crossed the Wabash on the very spot that he set out for, and next day surprised the Indians on Eel River, one hundred and eighty miles from Fort Washington—killed some of the Indians, took some, and pressed forward to find the Pottawatamie town, or Tippecanoe. The next day he inspected his command, to find its condition—found two hundred and seventy lame horses, and but five days' provisions in camp, two hundred and twenty miles from Fort Washington, surrounded with warlike tribes, but no baggage, besides prisoners. He returned safe, having performed a march of five hundred miles through an almost unknown forest, through bogs, creeks, and rivers; but, sir, in these days our men forded the rivers, if they could be forded well; but if not, swam them, without delay, on their horses.

The amendment I propose is, to authorize the President to raise, by enlistment, or by accepting volunteers, five hundred men, believing that number to be sufficient for the purpose intended. But if Congress will give us one thousand men, I am willing to concede something to meet the views of other Senators. The amendment differs but little from the laws of 1812 and 1813, authorizing the raising of the rangers. The President of that day allowed some companies to elect their own officers, and the officers or other companies were appointed here, and they were directed to enlist their men. We got some good officers, and some not so. These troops were efficient, and rendered valuable service. A gentleman now here, who was engaged in this service, can bear testimony of their usefulness.

Messrs. ROBINSON and KING opposed the motion, which was carried—yeas 26.

Mr. TIPTON moved to amend the bill by striking out the amendment of the House, and inserting a new bill, substantially as follows:

That the President of the United States be, and he is hereby, authorized to raise, either by the acceptance of volunteers, or enlistment for one year, unless sooner discharged, —— mounted rangers, to be armed, equipped, mounted, and organized, in such a manner, and to be under such regulations and restrictions, as the nature of the service may, in his opinion, make necessary.

SEC. 2. That each of the said companies of rangers shall consist of one captain, one first, one second, and one third lieutenant, five sergeants, five corporals, and one hundred privates—the whole to form a battalion, and be commanded by a major.

SEC. 3. That the said non-commissioned officers and privates shall arm and equip themselves, unless otherwise ordered by the President, and provide their own horses, and shall be allowed each —— per day, as a full compensation for their services, and the use of their arms and horses. The commissioned officers shall receive the same emoluments as officers of the same grade in the army of the United States.

SEC. 4. That the officers, non-commissioned officers, and privates, shall be entitled to the same provision, in case of disability by wounds or otherwise, as is made for officers, non-commissioned officers, and privates, in the regular army, and subject to all the rules and articles of war, so far as the same may be applicable.

SEC. 5. That the officers shall be appointed by the President, by and with the advice of the Senate.

Mr. HAYNE asked for a division of the question, so as first to take the vote on striking out the amendment of the House.

Mr. TIPTON made a few observations in defence of his amendment, which he said was framed in the exact words of the act of 1813. He considered that, under an efficient officer, well acquainted with the mode of Indian warfare, a force of five hundred men would be better than twice the number under the command of inexperienced men.

Mr. BIBB referred to the force raised by order

of General Washington in 1793, to aid General Wayne in his expedition against the Indians, as the most effective force which could be employed in such service.

The question was decided as follows:

YEAS.—Messrs. Bell, Benton, Buckner, Clayton, Ellis, Ewing, Foot, Frelinghuysen, Grundy, Hayne, Hendricks, Hill, Holmes, Knight, Mangum, Marcy, Miller, Moore, Naudain, Poindexter, Prentiss, Robbins, Seymour, Sprague, Tipton, Tomlinson, Troup, Tyler, Waggaman, Webster—30.

NAYS.—Messrs. Bibb, Chambers, Dudley, Forsyth, Kane, King, Robinson, Ruggles, Silsbee, Tazewell, White—11.

On motion of Mr. HENDRICKS, the first blank in the amendment of Mr. TIPTON was then filled with the words "six hundred," and the second with the words "one dollar."

Mr. KING moved to strike out the last section, relative to the appointment of officers by the President and Senate; but, on an explanation that the officers elected by the volunteers would be commissioned, he withdrew his motion.

The amendment of Mr. TIPTON was then agreed to, and reported to the Senate, and the Senate concurred therein.

SATURDAY, June 16.

Land Grant to Missouri for Roads and Canals.

On motion of Mr. BENTON, the Senate proceeded to consider the bill granting certain public lands to the State of Missouri, for the purpose of internal improvement.

The amendment made in committee to insert the States of Mississippi and Louisiana, was agreed to, and the question on the engrossment of the bill was put, and carried in the affirmative.

[A little discussion took place during the consideration of the bill, in which Mr. JOHNSTON, Mr. WEBSTER, Mr. WAGGAMAN, Mr. HOLMES, Mr. FORSYTH, Mr. BENTON, and Mr. POINDEXTER took part. It was stated that the four other new States had received grants of public lands, while the States included in the bill had received no donations either in money or lands. The present donation was asked for the purpose of making some improvements of great importance to the whole people of the Union, and not exclusively beneficial to the States to which the lands were granted.]

On motion of Mr. MOORE, the Senate proceeded to consider the bill supplementary to an act making appropriations for the improvement of the Tennessee, Coosa, Cahawba, and Black Warrior Rivers.

There was some discussion on this bill, which was finally, on motion of Mr. CLAY, laid on the table until Tuesday, to allow time for examination.

TUESDAY, June 19.

Death of Charles Johnston, Esq., a Representative from the State of Virginia.

A message was received from the House of Representatives, by their Clerk, notifying the Senate of the death of CHARLES C. JOHNSTON, a member of that House from the State of Virginia, and that his funeral would take place in the afternoon at half-past three o'clock.

On motion of Mr. TYLER, the Senate then adopted the following resolution:

Resolved, That the Senate, as a mark of respect, will attend the funeral of the Hon. CHARLES C. JOHNSTON, a member of Congress from Virginia, this day, at half-past three o'clock; and, as an additional mark of respect, that the Senators will go into mourning, by wearing crape on the left arm for thirty days.

On motion of Mr. TAZEWELL, it was then

Ordered, That when the Senate adjourns, it adjourn to meet at half-past three o'clock.

On motion of Mr. TAZEWELL,
The Senate then adjourned.

WEDNESDAY, June 20.

Public Lands—Distribution.

The Senate then took up the bill to appropriate, for a limited time, the proceeds of the public lands; and the amendments reported by the Committee on Public Lands were read.

Mr. POINDEXTER moved an amendment, giving 500,000 acres to each of the States of Missouri, Mississippi, and Louisiana; which was ordered to be printed.

Mr. CLAY said: No subject which had presented itself to the present, or perhaps any preceding Congress, was of greater magnitude than that of the public lands. There was another, indeed, which possessed a more exciting and absorbing interest, but the excitement was happily but temporary in its nature. Long after we shall cease to be agitated by the tariff, ages after our manufactures shall have acquired a stability and perfection which will enable them successfully to cope with the manufactures of any other country, the public lands will remain a subject of deep and enduring interest. In whatever view we contemplate them, there is no question of such vast importance. As to their extent, there is public land enough to found an empire; stretching across the immense continent, from the Atlantic to the Pacific Ocean, from the Gulf of Mexico to the Northwestern Lakes, the quantity, according to official surveys and estimates, amounting to the prodigious sum of one billion and eighty millions of acres! As to the duration of the interest regarded as a source of comfort to our people, and of public income, during the last year, when the greatest quantity was sold that ever, in one year, had been previously sold, it amounted to less than three

millions of acres, producing three millions and a half of dollars. Assuming that year as affording the standard rate at which the lands will be annually sold, it would require three hundred years to dispose of them. But the sales will probably be accelerated, from increased population and other causes. We may safely, however, anticipate that long, if not centuries, after the present day, the representatives of our children's children may be deliberating in the Halls of Congress on laws relating to the public lands.

The subject, in other points of view, challenged the fullest attention of an American statesman. If there was any one circumstance, more than all others, which distinguished our happy condition from that of the nations of the Old World, it was the possession of this vast national property, and the resources which it afforded to our people and our Government. No European nation (possibly with the exception of Russia) commanded such an ample resource. With respect to the other republics of this continent we have no information that any of them have yet adopted a regular system of previous survey and subsequent sale of their wild lands, in convenient tracts well defined and adapted to the wants of all. On the contrary, the probability is that they adhere to the ruinous and mad system of old Spain, according to which large unsurveyed districts are granted to favorite individuals, prejudicial to them, who often sink under the incumbrance, and die in poverty, whilst the regular current of emigration is checked and diverted from its legitimate channels.

And if there be in the operations of this Government one, which, more than any other, displays consummate wisdom and statesmanship, it is that system by which the public lands have been so successfully administered. We should pause, solemnly pause, before we subvert it. We should touch it hesitatingly, and with the gentlest hand. The prudent management of the public lands, in the hands of the General Government, will be more manifest by contrasting it with that of several of the States, which had the disposal of large bodies of waste lands. Virginia possessed an ample domain west of the mountains and in the present State of Kentucky, over and above her munificent cession to the General Government. Pressed for pecuniary means by the revolutionary war, she brought her wild lands, during its progress, into market, receiving payment in paper money. There were no previous surveys of the waste lands—no townships, no sections, no official definition or description of tracts. Each purchaser made his own location, describing the land bought as he thought proper. These locations or descriptions were often vague and uncertain. The consequence was, that the same tract was not unfrequently entered various times by different purchasers, so as to be literally shingled over with conflicting claims. The State, perhaps, sold in this way much more land than it was entitled to, but then it received nothing in return that was valuable; whilst the purchasers, in consequence of the clashing and interference between their rights, were exposed to tedious, vexatious, and ruinous litigation.

Kentucky long and severely suffered from this cause, and is just emerging from the troubles brought upon her by improvident land legislation. Western Virginia has also suffered greatly, though not to the same extent.

The State of Georgia had large bodies of waste lands, which she disposed of in a manner satisfactory no doubt to herself, but astonishing to every one of that commonwealth. According to her system, waste lands are distributed in lotteries among the people of the State, in conformity with the enactments of the Legislature. And when one district of country is disposed of, as there are many who do not draw prizes, the unsuccessful call out for fresh distributions. These are made, from time to time, as lands are acquired from the Indians; and hence one of the causes of the avidity with which the Indian lands are sought. It is manifest that neither the present generation nor posterity can derive much advantage from this mode of alienating public lands. On the contrary, I should think, it cannot fail to engender speculation and a spirit of gambling.

The State of Kentucky, in virtue of a compact with Virginia, acquired a right to a quantity of public lands south of Green River. Neglecting to profit by the unfortunate example of the parent State, she did not order the country to be surveyed previous to its being offered to purchasers. Seduced by some of those wild land projects, of which at all times there have been some afloat, and which hitherto the General Government alone has firmly resisted, she was tempted to offer her waste lands to settlers, at different prices, under the name of head rights or pre-emptions. As the laws, like most legislation upon such subjects, were somewhat loosely worded, the keen eye of the speculator soon discerned the defects, and he took advantage of them. Instances had occurred of masters obtaining certificates of head rights in the name of their slaves, and thus securing the land, in contravention of the intention of the legislature. Slaves generally have but one name, being called Tom, Jack, Dick, or Harry. To conceal the fraud, the owner would add Black, or some other cognomination, so that the certificate would read Tom Black, Jack Black, &c. The gentleman from Tennessee (Mr. GRUNDY) will remember, some twenty odd years ago, when we were both members of the Kentucky Legislature, that I took occasion to animadvert upon these fraudulent practices, and observed that, when the names came to be alphabetted, the truth would be told, whatever might be the language of the record; for the alphabet would read Black Tom, Black Harry, &c. Kentucky realized more in her treasury than the parent State had done, considering that she had but a remnant of public lands, and

she added somewhat to her population. But they were far less available than they would have been under a system of previous survey and regular sale.

These observations in respect to the course of the respectable States referred to, in relation to their public lands, are not prompted by any unkind feelings towards them, but to show the superiority of the land system of the United States.

Under the system of the General Government, the wisdom of which, in some respects, is admitted even by the report of the Land Committee, the country subject to its operation, beyond the Alleghany Mountains, has rapidly advanced in population, improvement, and prosperity. The example of the State of Ohio was emphatically relied on by the report of the Committee on Manufactures—its million of people, its canals and other improvements, its flourishing towns, its highly cultivated fields, all put there within less than forty years. To weaken the force of this example, the Land Committee deny that the population of that State is principally settled upon public lands derived from the General Government. But, Mr. President, with great deference to that committee, I must say that it labors under misapprehension. Three-fourths, if not four-fifths, of the population of that State are settled upon public lands purchased from the United States, and they are the most flourishing parts of the State. For the correctness of this statement I appeal to my friend from Ohio (Mr. EWING) near me. He knows, as well as I do, that the rich valleys of the Miami of Ohio, and the Maumee of the Lake, the Scioto, and the Muskingum, are principally settled by persons deriving titles to their lands from the United States.

In a national point of view, one of the greatest advantages which these public lands in the West, and this system of selling them, afford, is the resource which they present against pressure and want, in other parts of the Union, from the vocations of society being too closely filled, and too much crowded. They constantly tend to sustain the price of labor, by the opportunity which they offer of the acquisition of fertile land at a moderate price, and the consequent temptation to emigrate from those parts of the Union where labor may be badly rewarded. The progress of settlement, and the improvement in the fortunes and condition of individuals, under the operation of this beneficent system, are as simple as they are manifest. Pioneers of a more adventurous character, advancing before the tide of emigration, penetrate into the uninhabited regions of the West. They apply the axe to the forest, which falls before them, or the plough to the prairie, deeply sinking its share in the unbroken wild grasses in which it abounds. They build houses, plant orchards, enclose fields, cultivate the earth, and rear up families around them. Meantime, the tide of emigration flows upon them, their improved farms rise in value, a demand for them takes place, they sell to the new comers at a great advance, and proceed farther west, with ample means to purchase from Government, at reasonable prices, sufficient land for all the members of their families. Another and another tide succeeds the first, pushing on westwardly the previous settlers, who, in their turn, sell out their farms, constantly augmenting in price, until they arrive at a fixed and stationary value. In this way, thousands and tens of thousands are daily improving their circumstances, and bettering their condition. I have often witnessed this gratifying progress. On the same farm, you may sometimes behold, standing together, the first rude cabin of round and unhewn logs, and wooden chimneys, the hewn log house, chincked and shingled, with stone or brick chimneys; and, lastly, the comfortable brick or stone dwelling; each denoting the different occupants of the farm, or the several stages of the condition of the same occupant. What other nation can boast of such an outlet for its increasing population, such bountiful means of promoting their prosperity, and securing their independence?

To the public lands of the United States, and especially to the existing system by which they are distributed with so much regularity and equity, are we indebted for these signal benefits in our national condition. And every consideration of duty to ourselves and to posterity enjoins that we shall abstain from the adoption of any wild project that would cast away this vast national property, held by the General Government in sacred trust for the whole people of the United States, and forbids that we should rashly touch a system which has been so successfully tested by experience.

It has been only within a few years that restless men have thrown before the public their visionary plans for squandering the public domain. With the existing laws, the great State of the West is satisfied and contented. She has felt their benefit, and grown great and powerful under their sway. She knows and testifies to the liberality of the General Government in the administration of the public lands, extended alike to her and to the other new States. There are no petitions from, no movements in, Ohio, proposing vital and radical changes in the system. During the long period, in the House of Representatives and in the Senate, that her upright and unambitious citizen, the first Representative of that State, and afterwards successively Senator and Governor, presided over the Committee on Public Lands, we heard of none of these chimerical schemes. All went on smoothly, and quietly, and safely. No man, in the sphere within which he acted, ever commanded or deserved the implicit confidence of Congress more than Jeremiah Morrow. There existed a perfect persuasion of his entire impartiality and justice between the old States and the new. A few artless but sensible words, pronounced in his plain Scotch Irish dialect, were always sufficient to ensure the passage of

any bill or resolution which he reported. For about twenty-five years, there was no essential change in this system; and that which was at last made, varying the price of the public lands from two dollars, at which it had all that time remained, to one dollar and a quarter, at which it has been fixed only about ten or twelve years, was founded mainly on the consideration of abolishing the previous credits.

Assuming the duplication of our population in terms of twenty-five years, the demand for waste land, at the end of every term, will at least be double what it was at the commencement. But the ratio of the increased demand will be much greater than the increase of the whole population of the United States, because the Western States nearest to or including the public lands populate much more rapidly than other parts of the Union; and it will be from them that the greatest current of emigration will flow. At this moment Ohio, Kentucky, and Tennessee are the most migrating States in the Union.

To supply this constantly augmenting demand the policy which has hitherto characterized the General Government, has been highly liberal both towards individuals and the new States. Large tracts, far surpassing the demand of purchasers, in every climate and situation adapted to the wants of all parts of the Union, are brought into the market at moderate prices, the Government having sustained all the expense of the original purchase, and of surveying, marking, and dividing the land. For fifty dollars, any poor man may purchase forty acres of first rate land; and, for less than the wages of one year's labor, he may buy eighty acres. To the new States, also, has the Government been liberal and generous in the grants for schools and for internal improvements, as well as in reducing the debt contracted for the purchase of lands by the citizens of those States who were tempted, in a spirit of inordinate speculation, to purchase too much or at too high prices.

And now, Mr. President, I have to say something in respect to the particular plan brought forward by the Committee on Manufactures for a temporary appropriation of the proceeds of the sales of the public lands.

The committee saw that this fund is not wanted by the General Government; that the peace of the country is not likely, from present appearances, to be speedily disturbed; and that the General Government is absolutely embarrassed in providing against an enormous surplus in the Treasury. Whilst this is the condition of the Federal Government, the States are in want of, and can most beneficially use, that very surplus with which we do not know what to do. The powers of the General Government are limited; those of the States are ample. If those limited powers authorized an application of the fund to some objects, perhaps there are others of more importance, to which the powers of the States would be more competent, or to which they may apply a more provident care.

But the Government of the whole and of the parts, at last, is but one Government of the same people. In form, they are two; in substance, one. They both stand under the same solemn obligation to promote, by all the powers with which they are respectively intrusted, the happiness of the people; and the people, in their turn, owe respect and allegiance to both. Maintaining these relations, there should be mutual assistance to each other afforded by these two systems. When the States are full-handed, and the coffers of the General Government are empty, the States should come to the relief of the General Government, as many of them did, most promptly and patriotically, during the late war. When the conditions of the parties are reversed, as is now the case, the States wanting what is almost a burden to the General Government, the duty of this Government is to go to the relief of the States.

They were views like these which induced a majority of the committee to propose the plan of distribution contained in the bill now under consideration. For one, however, I will again repeat the declaration, which I made early in the session, that I unite cordially with those who condemn the application of any principle of distribution among the several States, to surplus revenue derived from taxation. I think income derived from taxation stands upon ground totally distinct from that which is received from the public lands. Congress can prevent the accumulation, at least, for any considerable time, of revenue from duties, by suitable legislation, lowering or augmenting the imposts; but it cannot stop the sales of the public lands, without the exercise of arbitrary and intolerable power. The powers of Congress over the public lands are broader and more comprehensive than those which they possess over taxation, and the money produced by it.

This brings me to consider, 1st, the power of Congress to make the distribution. By the second part of the third section of the fourth article of the constitution, Congress "have power to dispose of, and make all needful rules and regulations respecting the territory or other property of the United States." The power of disposition is plenary, unrestrained, unqualified. It is not limited to a specified object or to a defined purpose, but left applicable to any object or purpose which the wisdom of Congress shall deem fit, acting under its high responsibility.

The Government purchased Louisiana and Florida. May it not apply the proceeds of lands within those countries to any object which the good of the Union may seem to indicate? If there be a restraint in the constitution, where is it—what is it?

The uniform practice of the Government has conformed to the idea of its possessing full powers over the public lands. They have been freely granted, from time to time, to communities and individuals, for a great variety of purposes.

To States for education, internal improvement, public buildings; to corporations for education; to the deaf and dumb; to the cultivators of the olive and the vine; to pre-emptioners; to General Lafayette, &c.

The deeds from the ceding States, far from opposing, fully warrant the distribution. That of Virginia ceded the land as "a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the said States, Virginia inclusive." The cession was for the benefit of all the States. It may be argued that the fund must be retained in the common Treasury, and thence paid out. But, by the bill reported, it will come into the common Treasury; and then the question how shall it be subsequently applied for the use and benefit of such of the United States as compose the confederacy, is one of *modus* only. Whether the money is disbursed by the General Government directly, or is paid out, upon some equal and just principle, to the States, to be disbursed by them, cannot affect the right of distribution. If the General Government retained the power of ultimate disbursement, it could execute it only by suitable agents; and what agency is more suitable than that of the States themselves? If the States expend the money, as the bill contemplates, the expenditure will, in effect, be a disbursement for the benefit of the whole, although the several States are the organs of the expenditure; for the whole and all the parts are identical. And whatever redounds to the benefit of all the parts, necessarily contributes, in the same measure, to the benefit of the whole. The great question should be, is the distribution upon equal and just principles? And this brings me to consider,

2d. The terms of the distribution proposed by the bill of the Committee on Manufactures. The bill proposes a division of the net proceeds of the sales of the public lands among the several States composing the Union, according to their federal representative population, as ascertained by the last census; and it provides for new States that may hereafter be admitted into the Union. The basis of the distribution, therefore, is derived from the constitution itself, which has adopted the same rule, in respect to representation and direct taxes. None could be more just and equitable.

But it has been contended, in the land report, that the revolutionary States, which did not cede their public lands, ought not to be allowed to come into the distribution. This objection does not apply to the purchases of Louisiana and Florida, because the consideration for them was paid out of the common Treasury, and was consequently contributed by all the States. Nor has the objection any just foundation, when applied to the public lands derived from Virginia and the other ceding States; because, by the terms of the deeds, the cessions were made for the use and benefit of all the States. The ceding States having made no exception of any State, what right has the General Government to interpolate in the deeds, and now create an exception? The General Government is a mere trustee, holding the domain in virtue of those deeds, according to the terms and conditions which they expressly describe; and it is bound to execute the trust accordingly. But how is the fund produced by the public lands now expended? It comes into the common Treasury, and is disbursed for the common benefit, without exception of any State. The bill only proposes to substitute to that object, now no longer necessary, another and more useful common object. The general application of the fund will continue under the operation of the bill, although the particular purposes may be varied.

The equity of the proposed distribution, as it respects the two classes of States, the old and the new, must be manifest to the Senate. It proposes to assign to the new States, besides the five per cent. stipulated for in their several compacts with the General Government, the further sum of ten per cent. upon the net proceeds. Assuming the proceeds of the last year, amounting to $3,566,127,94, as the basis of the calculation, I hold in my hand a paper which shows the sum that each of the seven new States would receive. They have complained of the exemption from taxation of the public lands sold by the General Government for five years after the sale. If that exemption did not exist, and they were to exercise the power of taxing those lands, as the average increase of their population is only eight and half per cent. per annum, the additional revenue which they would raise would be only eight and a half per cent. per annum; that is to say, a State now collecting a revenue of $100,000 per annum would collect only $108,500, if it were to tax lands recently sold. But, by the bill under consideration, each of the seven new States will annually receive, as its distributive share, more than the whole amount of its annual revenue.

MONDAY, June 25.

Discriminating Duties with Spain.

A Message was received from the President of the United States, communicating a report from the Secretary of State, on the subject of the abolition of the discriminating duties now existing on Spanish vessels. The report was read. It stated that despatches had been received from our Minister in Spain, stating that an order had been issued by the Spanish Government abolishing the discriminating duties on American vessels, on condition that a similar abolition should be made by the United States.

Mr. CLAY, at whose instance the report was read, said he had found, as he feared, that this measure did not extend to Cuba, or the other islands of Spain. As the subject was about to be referred, and as, in relation to Cuba, almost

the entire carrying trade was confined to Spain, he hoped the attention of the committee would be directed to that point. He was aware that the Secretary stated in his report that negotiations were going on; but he thought that a measure of this kind might be put into the hands of the Executive, to strengthen the pending negotiation on the part of the United States. Some contingent provision as to the carrying trade with Cuba, and the other Spanish possessions, placed in the hands of our Minister in Spain, could not but be favorable to the object which he had in view. If no remedy should shortly be applied, Spain would soon monopolize the whole of the carrying trade between the United States and Cuba and the other Spanish islands.

The Message was referred to the Committee on Finance.

Statue of Washington.

The Senate, on motion of Mr. ROBBINS, took up for consideration the joint resolution, (as amended by the Committee on the Library,) authorizing the President to contract for a full-length pedestrian statue, in marble, of General Washington, to be placed in the rotundo, with an appropriation of $5,000.

Mr. FORSYTH inquired the object of this appropriation; if it were contemplated as sufficient for the purpose.

As giving a full view of the subject, Mr. POINDEXTER requested the report of the Library Committee to be read. It detailed the proceedings had in the House of Representatives, where the resolution had originally been adopted, authorizing the employment of Mr. Greenough, the American artist, to execute the work; and contained a copy of a letter from the Department of State, informing Mr. Greenough, now in Italy, thereof, with instructions respecting the same; the head to be modelled after that of Houdon's statue, the rest of the outlines to be left to the artist's own taste, &c.

Mr. MILLER objected to such appropriations, where the specific sum required was not known. In this mode yearly and indefinite grants would be called for to cover the cost till completed, and it was hard to say where it might end.

Mr. CLAY said that he strongly hoped the resolution would be allowed to be engrossed for a third reading. Of the many illustrious men to whom their country owed a debt of gratitude, Washington was the only one to whom he would think it prudent to pay the homage now contemplated. An image—a testimonial of this great man, the father of his country, should exist in every part of the Union, as a memorial of his patriotism, and of the services rendered his country; but of all places, it was required in this capitol—the centre of the Union—the offspring, the creation, of his mind and of his labors. An appropriation for this individual purpose, at another period of the session, had been introduced in the general measure, and was afterwards struck out, on the understanding of being brought forward in the present mode. But, even since that time, they had an additional motive for this act. Application for the remains of this great man had been made by the representatives of the nation, to bestow on them a national tribute of honor; and this application had met with a refusal. The death of the proprietor of the spot where those remains rested, had but just taken place; and into whose hands they should now fall—into the possession of a friend or stranger, in the event of a sale of the property or otherwise, it was impossible to conjecture; but such being the casualties to which they were liable, it behooved them (the Congress of the United States) the more to adopt means to secure a representative of those relics, that might endure for future ages. The resolution had his hearty concurrence, and he hoped it would pass without objection.

The question being put on the engrossing for a third reading, the yeas and nays were ordered, on the call of Mr. HAYNE, and were as follows:

YEAS.—Messrs. Bell, Benton, Chambers, Clay, Clayton, Dallas, Dudley, Ewing, Foot, Frelinghuysen, Grundy, Holmes, Johnston, Kane, Knight, Marcy, Moore, Naudain, Prentiss, Poindexter, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tipton, Tomlinson, Webster, Wilkins—30.

NAYS.—Messrs. Bibb, Brown, Dickerson, Hayne, Hill, Miller, Tazewell, Troup, Tyler, White—10.

WEDNESDAY, June 27.

Privileges of the Senate's Officers.

Mr. HOLMES offered the following resolution:

Resolved, That the assistant doorkeeper of the Senate be permitted to attend as a witness before a Committee of the House of Representatives, agreeably to his summons.

Mr. HOLMES, in offering this resolution, expressed his belief that the doorkeeper could not render obedience to the summons, which was signed by the Clerk of the House, and bore the seal of the House, without the consent of the Senate.

Mr. GRUNDY had some doubts whether the resolution was justified by any thing in the history of Congress; and asked if the Senator from Maine had looked into the journals to inform himself whether it had been the practice to place the doorkeeper on the same footing with a Senator.

Mr. HOLMES, in reply, stated that the resolution conformed to the practice of the British Parliament; and that it was justified by the reason of the thing, as the services of the doorkeeper were as necessary to the Senate as those of any of the Senators.

Mr. CLAY differed from the view which had been taken by the Senator from Maine. He did not concur in the idea that the constitutional privileges with which the Senators were invested should be extended to the officers of that body. As to the British Parliament, it

was well known that they had similar rules on the subject of privilege, and laws of their own, which could have no reference to Congress. The only thing of any consequence, in his opinion, was, that the Senate should have a knowledge that the doorkeeper was in performance of his duty, in attendance on the House of Representatives, and was not wilfully neglecting any of his duties to the Senate. The Senate had now that knowledge, and he moved to lay the resolution on the table, but withdrew it for a moment; and

Mr. FOOT stated that if the officer of the Senate was not subject to be taken from his duty by the process of any court, so neither could he by any process of the other House.

Mr. FRELINGHUYSEN stated that he was informed by a member of the committee of the other House that the doorkeeper was only required to attend during the recess of the Senate.

On motion of Mr. CLAY, the resolution was then laid on the table.

Daughter of T. Jefferson.

Mr. POINDEXTER moved that the Senate take up the bill for the benefit of Martha Randolph, daughter of Thomas Jefferson, and asked for the yeas and nays on his motion, which were ordered; and, being taken, were as follows:

YEAS.—Messrs. Benton, Chambers, Clay, Dickerson, Dudley, Hendricks, Holmes, Poindexter, Robbins, Robinson, Seymour, Smith, Tipton, White, Wilkins—15.

NAYS.—Messrs. Bell, Bibb, Brown, Dallas, Ellis, Ewing, Foot, Forsyth, Frelinghuysen, Grundy, Hayne, Hill, Kane, King, Knight, Mangum, Marcy, Miller, Naudain, Prentiss, Ruggles, Tazewell, Tyler—23.

THURSDAY, June 28.

Day of Humiliation.

The following resolution, offered by Mr. CLAY, was taken up for consideration:

Resolved, By the Senate and House of Representatives of the United States of America in Congress assembled, That a joint committee of both Houses wait on the President of the United States, and request that he recommend a day, to be designated by him, of public humiliation, prayer, and fasting, to be observed by the people of the United States with religious solemnity, and with fervent supplications to Almighty God that He will be graciously pleased to continue His blessings upon our country, and that He will avert from it the Asiatic scourge which has reached our borders; or if, in the dispensations of His providence, we are not to be exempted from the calamity, that, through His bountiful mercy, its severity may be mitigated, and its duration shortened.

Mr. TAZEWELL asked for the yeas and nays on the resolution; which were ordered.

After Mr. T. had called for the yeas and nays, and had remarked that he would not say one word on the subject,

Mr. CLAY rose, and observed that he had only one word to express. The resolution had not been submitted without consultation with members of the Senate, whose opinion was entitled to more respect than his own. It was, indeed, first suggested to him by a reverend member of the clergy, and, after deliberate consideration, he (Mr. C.) though the occasion fit for the recommendation of the religious ceremony which the resolution contemplated. It was the practice of all Christian nations, in seasons of general and great calamity, to implore Divine mercy. Of all the pestilential scourges which had afflicted our race, the Asiatic cholera, in some of its characteristics, was the most remarkable. Its range of operation had been more extensive than perhaps any other known or recorded, the smallpox excepted. It had broken out in Asia, and, after desolating some of its fairest portions, penetrated the northern part of Europe, and, sweeping over a great part of that continent, reached the British channel. It passed over the British isles, where it raged but with mitigated severity. We had hoped—vainly, it seems, hoped—that the wide expanse of the Atlantic Ocean would have been a protecting barrier against its ravages, in our far distant land. But it has been introduced into America; and, if it has not actually entered our territory, it now hangs on our borders in its most frightful form.

The progress of the extraordinary scourge is sometimes marked by apparent caprice. It will approach a city or district of country, reconnoitring it, as it were, with a military eye, suddenly fly off to a distance, leaving the inhabitants rejoicing in their escape, and it will then unexpectedly return, and pursue its work of death. It attacks, too, its victims in various ways, despatching some in a few hours, whilst, in regard to others, their excrutiating tortures are prolonged a much greater length of time. Hitherto, the skill of medical science, liberal and enlightened as it now is, has been altogether incompetent to provide a sure and effective remedy.

A single word, Mr. President, as to myself. I am a member of no religious sect. I am not a professor of religion. I regret that I am not. I wish that I was, and I trust I shall be. But I have, and always have had, a profound respect for Christianity, the religion of my fathers, and for its rites, its usages, and its observances. Among these, that which is proposed in the resolution before you has always commanded the respect of the good and devout; and I hope it will obtain the concurrence of the Senate.

Mr. FRELINGHUYSEN said, as it was to be inferred, from the call just made for the yeas and nays, that this resolution would be opposed, he begged leave to refer the attention of the Senate more particularly to the example of the Congress in 1812. A day of humiliation, fasting, and prayer, was then recommended by a joint resolution of the Senate and House of

Representatives, because of the war with Great Britain in which the country was at that time involved. It was regarded as one of those seasons of public calamity in which it became a whole people to acknowledge their dependence, and humble themselves before God. So far as I can learn, from the journals of that day, said Mr. F., the resolution was adopted without opposition. Now, sir, if a state of war, in which we had, by voluntary declaration, engaged, was a fit occasion to call forth public expressions of humiliation for our sins, and to invoke the merciful providence of God, how much more appropriately does it become us thus to feel and act, on the approach of a pestilence that, in its ravages over the Old World, has swept many millions of our fellow-men into eternity; and which, in its character and progress through the earth, seems so emphatically to be the instrument of Divine Providence, beyond the influence and control of second causes, and especially selected to accomplish His purposes, and to go and come at His bidding.

I hope, sir, that the present resolution may meet with no serious opposition. It surely becomes us to acknowledge our dependence, and to implore the interposition of God's mercy in this season of alarm. The constitution can present no obstacle, for it is not an exercise of political power. It is far beyond the range of politics. It is an act of piety to God, becoming the whole nation; in which rulers and people are invited and advised to bow together before His throne of Grace, and there, feeling ourselves to be in like need, to unite in one common supplication to Him, who has the issues of life and death, that He would be pleased to spare us in the day of His righteous judgment. I trust, sir, that this motion will receive the same decided countenance that was accorded to a similar measure in the late war, and on many occasions during the war of the revolution.

Mr. TAZEWELL said he had but a single word to state in explanation of his vote for withholding his assent to the resolution. In his opinion, Congress had no more power to recommend by joint resolution than to enact by law, any matter or thing concerning any religious matter or right whatsoever. He could not, let the pressure of the case be what it might, in conformity to the oath which bound him here, give his vote to sustain this principle.

He had another argument to support his opposition. He did not concur in the opinion that a majority of the people apprehended such an extent of mischief as seemed to be apprehended by gentlemen here. The disease had not yet made its appearance in our country, and there seemed to him to be strong reasons to believe it will not reach us, except in the persons of those unfortunate people who bring it with them from a distant country. It would probably rage, and prove extensively fatal among emigrants, being a disease which was engendered by the filth which attends squalid poverty; and, until our situation shall be so changed as to reduce us to similar poverty, there was no reason to fear it.

Entertaining these opinions, he had no desire to sanction any act the tendency of which would be to add to the existing excitement on the subject, interrupting the ordinary course of business, and throwing every thing into a state of confusion.

The question was taken on agreeing to the resolution, and decided as follows:

YEAS.—Messrs. Bell, Chambers, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Grundy, Hendricks, Holmes, Johnston, Kane, Knight, Marcy, Naudain, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—30.

NAYS.—Messrs. Benton, Brown, Ellis, Hayne, Hill, King, Mangum, Miller, Smith, Tazewell, Troup, Tyler, White—13.

Public Lands—Distribution.

The Senate then resumed the bill to appropriate, for a limited time, the proceeds of the public lands—the question being on the motion for indefinite postponement.

Mr. EWING said: The public lands are derived from various sources; but it is not necessary to examine them separately, as both reports agree in this, that they are all the property of the United States, and all subject to the same obligations. Whatever, therefore, is true of any one large division of that territory, will be admitted as true of all. I will test the question by an examination of our rights and duties with regard to the land lying in the old territory northwest of the river Ohio. The right of the Union to this extensive tract of land originates in a grant from the State of Virginia, which, among other things, provides "that all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the aforementioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other use or purpose whatsoever."

This grant, sir, which, being accepted, became a compact, was made to the old confederation of States prior to the adoption of the constitution, but is assumed by the first section of the sixth article of the constitution, which provides that "all debts contracted, and engagements entered into, before the adoption of this constitution, shall be valid against the United States, under this constitution, as under the confederation."

This land, then, by the terms of the grant, is made a fund for the use of all the States. The

United States is the trustee for the common benefit; and, as such, is especially enjoined to "dispose of it faithfully and *bona fide*" "for that purpose, and for no other purpose whatsoever."

At the time of the grant, the States were indebted to a large amount; but no pledge is made of the land for the payment of the debt. An appropriation to that use comes within the spirit of the trust. A literal compliance with the terms of the trust would have required at all times the sale of the lands, and a distribution of the proceeds. It was never specially pledged for the purposes of revenue. The proceeds, however, may be fairly applied to purposes of revenue, because, applied in that way, it is in effect applied equally for the benefit of all the States. But neither revenue nor the payment of the public debt can be for a moment claimed as the sole or leading object of the grant. If the debt were paid, and no revenue required for the purposes of Government, the obligation on the Union to execute the trust would still remain perfect. We must *bona fide* dispose of it for the benefit of all the States, "and for no other purpose whatever."

Now, sir, if the trust be not dependent upon the wants of the General Government, if that do not appear clearly to have been the object of the grant, and that from a fair interpretation of the instrument itself, those wants cannot at all influence us in the disposition of the trust estate "*bona fide*" for the objects of that trust actually expressed.

In this first particular in which the Committee on Public Lands have passed their "decisive condemnation" upon the bill from the Committee on Manufactures, the condemning committee have fallen into an error, very gross and palpable, and indeed somewhat extraordinary, considering the relation in which they stand to this subject generally, and more especially the attitude which they voluntarily assumed toward another committee of the Senate.

The second particular in which the Committee on Public Lands finds "this bill to be erroneous," is "because it changes the character of the relationship (and that most injuriously to the new States) between those States and the Federal Government, substituting an individual, pecuniary State interest in the soil, instead of a general congressional superintendence over its disposition, and leaving the power of legislation over the soil in the hands of those who are to divide the money they can make out of it."

Sir, is this, or any part of it, true in fact or in law? Does the bill before you change, or propose to change, at all the relationship between the new States and the Federal Government, and, if so, wherein? The lands are now sold by the General Government, and the proceeds applied to the use of the States, in the payment of their joint debts. The bill proposes to sell the lands in the same manner, and by the same authority, and, the debt being paid, to hand over the money directly to the *cestui que* trust, to be applied, in another manner, for their benefit. There is no change proposed in relationship, management, or interest. The bill gives no State any power of legislation over the soil which it does not now possess.

So much, sir, for the second error in principle which the honorable chairman of the Committee on Public Lands has detected in this bill.

The report proceeds to say that "the details of the bill are obviously erroneous, because they make no distinction in the rate of distribution between States which did, or did not, cede vacant lands to the General Government."

In answer to this, I ask the Senate to refer once more to the same clause in the deed of cession creating the trust. "The land," says the grantor, "shall be a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure;" and if, sir, we hold that nations are bound by the rules of morality and justice, if the faith of contracts is to be at all regarded by them, then is the report of my honorable friend right and just in the point in which it is here assailed, and the chairman of the reviewing committee has erred most strangely, especially when we consider the spirit of candor in which he assures us he entered upon this investigation, and the extent of knowledge to which he lays claim upon this subject.

The third particular in which the chairman of the reviewing committee finds the bill to be erroneous, is this: that it makes no distinction between States "which have or have not received grants of land or appropriations of money for internal improvement."

If this clause in the report were in itself at all ambiguous, the exposition of the chairman of the committee who reported it would remove the doubt. It refers especially to the grant made by Congress to Ohio to aid in the construction of her grand canal; and the principle embodied in the objection goes to this, that the value of that grant ought to be deducted from the share of that State before she receives her dividend. I shall offer a few suggestions on this point, and then freely submit to any unprejudiced mind the justice of this proposition.

Sir, when this grant of 500,000 acres of land was made to the State of Ohio, to aid in the construction of her grand canal, that great work, highly national in its character, one in which all portions of the Union were and are interested, had been commenced, and was advanced to that stage of forwardness which rendered its completion certain. The State which had undertaken it was in her infancy—a new community—and, though rich in her fertile fields, and hardy, industrious, and enterprising

people, she was without that accumulated wealth which has enabled other States and nations to achieve like enterprises. To effect the object, a resort to loans was necessary, for the payment of which the real estate, the land of her citizens, was the principal pledge: the money necessary to keep down the interest was and is raised chiefly by a tax on land; and the farmer, who bore the burden, was to be indemnified by the increased value which the work, when completed, would give to his land. The land within the State amounts to about twenty-five millions of acres; and of this nearly seven millions (more than one-fourth of the whole) belonged to the United States. The land of the United States was freed from State taxation, for the ordinary purposes of Government, by a special compact; but the spirit of this compact did not extend to an extraordinary expenditure like this, the tendency of which is at once greatly to enhance the value of the subject. The United States, therefore, as a landholder, ought, (it was believed,) in justice, to bear a reasonable proportion of the common burden incurred for the common benefit of landholders in that State. In her capacity of landed proprietor, the United States was interested to about one-fourth of the whole amount of the expenditure; the donation which she finally made amounted to much less than one-eighth of that amount. In this single point of view, therefore, the United States did nothing more than justice to Ohio; and it would now be both ungenerous and unjust to charge this donation (so called) upon the distributive share of that State.

Sir, there is yet a further benefit resulting to the United States, as a land proprietor, from the Ohio Canal, the contribution to which is so much grudged by the honorable chairman of the Committee on Public Lands. The vast bulk of the national domain lies upon the Upper Mississippi and Missouri, and their branches; this canal connects the navigable waters of those rivers with the Northern lakes, and through them with the Northern ports on the Atlantic, opening new and important facilities to emigration, and giving a new and steady market to the products of that vast region. That it thus advances the sales and increases the value of all this portion of the public lands, is unquestionable; the extent and value of this increase are beyond computation.

But, sir, in making this donation, Congress did not place it solely upon the ground to which I have adverted, nor did they profess to give this land as a gratuity. They looked, as they ought, to the probable wants of our whole country; and, in case of a foreign war with a powerful maritime nation, they could not doubt, nor could any man now doubt, that the free use of the canal, which is reserved to the Union as a condition of this grant, may more than repay, in a single year, the whole value of the grant itself.

But, sir, on what ground is this question placed by the chairman of the Committee on Public Lands? Does he repudiate this bill because it gives to the States in which the public lands lie, ten per cent. on the amount of the sales within their limits? No, sir; he holds this bonus too small, and proposes to amend the bill by raising it to fifteen per cent. Now, on what principle is this proposed? Surely, because the new States are entitled, for the purposes of improvement, to the amount of fifteen per cent. on their sales, and that it is an act of justice, or at least, justifiable liberality, to give it them. But if it be just and proper to give to these States that per centum on the sales within their limits at this time, it has always been so: for the tenure in those lands, and the relation of the Government and of the States toward them, has never changed, and the principles of right and justice are immutable. It would, therefore, have been right to give, in donations of land or money, fifteen per cent. of all the sales within the State of Ohio, to that State, to aid her in the construction of works of internal improvement; and a donation (if it be purely such) which does not extend beyond that sum, should not, upon the principles of the proposed amendment, be held up as a charge against the State. Now, exclusive of the debts of the Union, which have been paid by the lands in Ohio in bounties, there has been actually received into the Treasury, from the sale of lands within that State, about seventeen millions of dollars; the proposed per centum on which would amount to two million five hundred and fifty thousand dollars, which Ohio ought to have received, according to the honorable chairman's own showing, instead of the five hundred thousand acres of land with which he proposes to charge her.

Sir, I will pursue this branch of the inquiry no further; but I cannot forbear the remark, that it struck me as singular, indeed, that an objection of this kind could ever have found a place in the report of a committee of this body, whose only object was the search of truth and the exposure of error, and who advanced to the inquiry, as they doubtless did, without prejudice or partiality towards any State or any individual.

The fourth objection to the details of the bill is, that it makes no distinction "between those (States) which have or have not a black population to be colonized in Africa." This appears on the first page of the report, grouped with the two which I have last examined; and if it mean any thing, I understand it, in effect, to affirm that those States which have a black population to be colonized in Africa, ought to have a larger dividend in proportion to their population, than those which have none; and that this bill is "obviously erroneous," because it does not give them more. The reasons which I have urged, in answer to the first of the three exceptions to the details of the bill, are alike decisive as to this. It would have been a violation of the trust reposed in the

United States by the deed of cession, to have made the distinction here claimed in behalf of the slaveholding States. No wise statesman, no just man, could recommend it; and surely if this clause in the grant had not wholly escaped the recollection of the chairman of the Committee on Public Lands, he could never have seriously urged its omission as an objection to the bill.

But, sir, permit me to call your attention, for one moment, to the consistency of the report of the reviewing committee. On page 1, they say that the bill is "obviously erroneous," because it makes no distinction between those States which have, and those which have not, a black population to be colonized in Africa. On page 16, they deliver a grave and monitory lecture on the subject of colonization, declare it a delicate question for Congress to touch, and add, that "the harmony of the States, and the durability of the confederacy, interdict the legislation of the Federal Legislature on the subject." Now these two clauses make rather an odd appearance when placed in juxtaposition with each other, especially in a most candid report, the sole object of which is the detection and correction of great and dangerous errors. But, so skilful is the honorable Senator who presented this report in the detection of errors, that he can find them everywhere, on every side of every proposition; and such the subtlety of his logic, that he can expose them, too, though they lurk unseen by an ordinary vision; go where you will, reason as you may, there is no escaping him—like Butler's logical knight-errant,

> On either side he can dispute,
> Confute, change sides, and still confute.

On the second page of their report, the Reviewing Committee examine the account current of the public domain, as stated by my honorable friend from Kentucky, and find it, also, very erroneous. Instead of being in debt ten millions, or upwards, they show that it has overpaid, by many millions, all costs and charges, leaving on hand many hundred millions of acres of land undisposed of. But, at page 6, they tell us that "the administration of the public lands is an expensive branch, and an unprofitable source of revenue; and a cessation from the agency, and a release from the expense, would form a respectable item in the plan of retrenchment," &c. Thus, in one place, the land has yielded a fund much larger than represented by the gentleman from Kentucky; in another, it yields much less, and is, in truth, an expense and burden to the Government. Sir, the state of facts in the hands of the honorable chairman of the Committee on Public Lands changes, with admirable facility, to suit the argument which it is used to overthrow or advance.

But time presses, and I can give but a passing notice to the many matters touched upon in this report. In that presented by the honorable Senator from Kentucky, it is said that the present land system has been long tried, and that it works well; and the rapid increase of population in the Western States, especially in Ohio, the eldest of those States, and the one in which the experiment has been the most fully tried, is presented as an example. In this position, and in the illustration also, the Reviewing Committee detect other and further errors. "The truth is, (say they, page 11,) Ohio owes at least two-thirds of her present greatness to settlements on Virginia military bounties, on lands sold before the adoption of the present system, at the easy rate of sixty-six and two-third cents per acre, payable in revolutionary certificates; on the Western reserve, sold by Connecticut to individuals, at a few cents per acre; on donations to settlers, to Nova Scotia and Canadian refugees, and for schools and other purposes; and on the public lands, where a multitude of poor people are seated without titles."

Sir, to examine specially, and assign its true merit to this long array of causes on which this report rests the "present greatness" of the State of Ohio, would occupy more time than I wish to devote to it, and much more than your patience would allow. Some leading items only will I notice. And, first, the Virginia military bounties. Their location in the State of Ohio is assigned as one of the great causes of her prosperity; or, in the opinion of the Committee on Public Lands, if that tract of country had been surveyed and sold by the United States, the settlement of the State would have been thereby retarded; or, in other words, this tract of country would not have been as well peopled as it now is. Their position must be true to this extent, or the argument of the Reviewing Committee is fallacious. But how is the act?

It is idle to suppose that the officers and soldiers of Virginia, the recipients of this bounty, have settled on the land set off to them, and thus peopled the country; this has not occurred in one case in a thousand. That they sold their warrants at a cheap rate, is true; but the purchasers were not the actual settlers and tillers of the soil. The proprietors of warrants sold to speculators before or after location—single individuals, purchasing several hundreds of thousands of acres, and selling again at rates seldom below, and often much above, the minimum price of the public lands; consequently the settlement of that portion of the country was much retarded, and lingered far behind that of the adjacent lands of a good quality east of the Scioto or west of the Little Miami Rivers. But there were other causes besides merely price, which delayed the settlement of the Virginia military district. It often happened that choice tracts of land, inviting to the farmer, could not be purchased upon any terms. Sometimes it belonged to infant heirs; or was divided, in the course of descents, into minute portions, the property of persons separated

from each other, and ignorant of their rights; and thus was, in effect, shut out from sale, and consequently from settlement. And, moreover, cases of defective titles, consequent upon interfering claims, as well as the state of things to which I have just referred, formed a most serious obstacle to the sale and settlement of those lands. These are among the causes which produced a well-known effect; that part of Ohio did, in fact, settle less rapidly than the lands on either side of it of like quality, which was sold by the Government. So far, therefore, from owing her greatness to that circumstance, Ohio has been retarded in her advancement by the location of those lands within her borders.

The next circumstance, which, according to this report, aided to achieve the greatness of Ohio, was the sale of lands "before the adoption of the present system, at the easy rate of sixty-six and two-third cents per acre, payable in certificates."

I must here take leave, once more, to call the attention of the Senate to the consistency of the facts and opinions advanced by the Committee on Public Lands, as presented in this report. They give us the value of the public lands in the several new States and Territories, in the gross, and average them at between twenty and fifty cents per acre; even the fine lands in Illinois, than which the world affords none better, would range, as they have it, below fifty cents, and this, too, land which is bordering on flourishing settlements, and is surveyed and ready for market. But companies who formed the first settlements in Ohio purchased at the easy rate of sixty-six and two-third cents per acre.

Sir, to enable the Senate to form an estimate of the justness of this comparison, and the consequent correctness of the report in this particular, I must call your attention for a moment to the actual state of the country at the time the two large purchases referred to were made. That I may consume as little of your time as possible, I will refer specially to but one, and that the larger, and, by a short time, the earlier purchases; but all that I may say of one is, substantially, applicable to both, except that the Miami purchase covered a rich tract of country, while that of the Ohio Company was unfortunately fixed upon a less fertile spot.

The Ohio Company effected their purchase in the summer of 1787. At this time we were yet recent from the war with England which gave us independence. Her troops and garrisons were not withdrawn from our territories; she still held possession of Detroit, and some small forts on the southern shore of Lake Erie, by means of which, and her traders, she held control over the Indians, and incited them to hostilities. On the one side our frontier settlements had pushed westward as far as Fort Pitt and Wheeling, but it was in weak and scattered detachments, constantly menaced with Indian massacre, and venturing but a little way from the forts by which they were protected. No wheeled carriage had then, I believe, ever crossed, or could cross, the Alleghany mountain; the families and the household goods of the emigrants, and all the comforts, and even necessaries of life, which they did not wholly forego, and which their woods and fields did not furnish, were transported on horseback from Chambersburg and Fort Cumberland; and there are spots in the gorges of the mountain, the names of which attest that even this difficult and adventurous traffic was not carried on in safety. Such was, briefly, the situation of the country when the Ohio Company purchased of the United States 1,500,000 acres of land, in a single body, one hundred miles beyond the furthest outposts of our settlements, in a hilly and comparatively barren region, and themselves, by their compact, bound, not only to survey their own lands, but one-twelfth part of the whole, which was reserved by Congress, in the centre of each township, for their own future sale. This purchase, at the time, and under the circumstances I have mentioned, was made, say the Reviewing Committee, "at the easy rate of sixty-six and two-third cents the acre," while, in the next page of their report, they show, or attempt to show, that the average value of lands in the best and most rapidly populating districts of country in the Union are now worth less than fifty cents per acre. No one, I think, will longer wonder that the bill reported by my honorable friend from Kentucky has received the decisive condemnation of this committee. For, sir, though the gentlemen composing its majority did, doubtless, give the subject of the public lands the singular reference to the Committee on Manufactures, for sound reasons, and from the purest motives, without any purpose of involving any individual in difficulty or embarrassment; and although the second reference to themselves of the subject which they had before thus strangely, and which had been examined thus ably, was, doubtless, done from a high sense of public duty alone; and although, doubtless, as the honorable chairman of the Reviewing Committee observed, he has done nothing more than to correct (what appeared to him) palpable errors, in fact and argument, in the report of the first committee, and this, too, in no unfriendly spirit; yet, the extraordinary faculty which he possesses of marshalling his facts; the discipline which he has taught them, so that, at his bidding, they will face either way, and overwhelm a proposition which he may be disposed to prove wrong; and his principle of comparison, as evinced in the instance to which I have last referred, so different from that of other men, and so wholly inscrutable to an every-day intellect; would lead us, on the whole, to conclude that no view which could have been taken of this subject by the Committee on Manufactures, unless aided by inspiration, could have met any thing less than his "decisive condemnation."

Sir, I cannot part with this subject without saying something of the project reported by my honorable friend from Kentucky, and which is embodied in this bill. He proposes the distribution of the proceeds of the public lands among the several States, to be by them applied to internal improvement; the payment of debts contracted for internal improvement; the colonization of free people of color, and education; objects national in their character, and dear to all who value the prosperity of our country, and the improvement and happiness of the human race. Doubts, it is true, have been suggested, of the constitutionality of the measure, but I humbly conceive, when examined, those doubts will be dissipated.

All the lands of the United States are placed upon the same footing by the Committee on Public Lands, and the rights of the nation over each and every part of it are held to be the same. In this the two committees agree entirely. We may, therefore, hold it as a conceded point. I will examine our rights over but one portion of it, and that at present, by far the most important—that lying between the Ohio, the Mississippi, and the lakes, formerly known as the territory northwest of the river Ohio. And, sir, as it is a question of strict law, you will excuse me the repetition which it necessarily involves.

We hold these lands by virtue of a deed of cession from the State of Virginia, to which I will once again refer. This deed, after designating certain trusts to which a part of it was to be applied, provides:

"That all the lands within the territory so ceded to the United States, and not reserved for, or appropriated to, any of the before-mentioned purposes, or disposed of in bounties to the officers and soldiers of the American army, shall be considered a common fund for the use and benefit of such of the United States as have become, or shall become, members of the confederation or federal alliance of the States, Virginia inclusive, according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and *bona fide* disposed of for that purpose, and for no other purpose whatsoever."

This cession was made and accepted before the adoption of the federal constitution; it has, therefore, no relation to that instrument; but the constitution (art 6th) has relation to the deed, and one of the contracts entered into and binding on the national faith. This places the General Government in the situation of a trustee of this fund, which it must dispose of *bona fide* for the common benefit. Now, sir, while the nation, which represents all the States collectively, was indebted, its debt being the debt of all, it was a fair and legitimate execution of the trust, to sell the lands, and apply the proceeds to the payment of the debt; so, also, if its proceeds be necessary for the current expenses of the Government. This no one doubts, as it is disposing of the property *bona fide* for the use and benefit of all the States, and in the proportions stipulated. But what is to be done when the debt is paid, and the fund is not needed for the purposes of the General Government?

Give it away, cast it off as an inconvenient burden, say the Committee on Public Lands. Dispose of it as heretofore, and distribute the proceeds justly, according to the intent and spirit of the trust under which you hold it, say the Committee on Manufactures.

The compact which the acceptance of the deed of cession carried with it, I hold to be imperative and perpetual. In all future time, and under all circumstances, until the sales are completed, the lands remain a common fund. They must be disposed of by Congress, *bona fide* for the use and benefit of such of the States as shall be members of the federal alliance at the time of their sale or disposition. But must the fund necessarily be held and applied by Congress to the future exigencies of the General Government? I do not ask if it may, but must it? The paragraphs already dwelt upon carry with them no such obligation; but there is another member of the clause which clearly implies distribution. This fund for the common benefit shall be *bona fide* disposed of for the use and benefit of the States, "according to their usual respective proportions in the general charge and expenditure." If the object had been to apply this only to the accruing charges which revenue, properly so called, is designed to meet, this last-cited clause would have found no place here. But it clearly contemplates distribution, and is placed upon the basis of a profit and loss account between individual partners. In the proportion that States contribute to support the expenses of Government, in that proportion shall they receive the proceeds of sale of common property. It seems to me, therefore, a clear case of constitutional right, if not of obligation, that these lands and their proceeds be applied in the manner proposed by this bill. This mode is as just, and it is expedient alike for the benefit of all the States, old and new. The Treasury of the United States is now full to overflowing, and for none of the purposes of Government is this fund necessary or useful to the nation as a whole. But the States have, by their general compact, divested themselves of the first and greatest resource of revenue—that of imports on commerce; many of them, having no other resource, support their Government by hard, direct taxation upon land, which, less than any other species of property, can bear taxation. Thus, they labor under great, and, indeed, almost insurmountable difficulties, in raising funds for those expenditures necessary for the internal improvement of their country, and the education of the rising generation. The distribution of the proceeds of these lands would remove all this evil. Those States which have borrowed and expended large sums in improvements of a permanent and national character would be relieved from the debt with which they are burdened,

and to the rest it would furnish a fund sufficient to keep up these improvements in an even pace with the progress of population. And, moreover, it would place in the hands of the States a fund which, well applied, would furnish the means of education to all the rising generations which are to succeed us.

Mr. BENTON said: The Senator from Kentucky, in skipping all the arguments of the Committee on Public Lands, has been equally averse to the use of arguments on his own side. Song, anecdote, metaphor; many exhibitions and flourishes to entertain the ladies and bystanders; but very few arguments to enlighten the Senate. The cash argument was the only one which he condescended to use. The table of dividends was the Alpha and Omega of his argument, and that table was constructed upon a principle of error, which exhibits to each State about four or five times more spoil than it would ever get. Instead of an average of a series of years, which would give a million and three-quarters in place of three millions, for the gross receipts from the public lands, instead of the net proceeds, which would require about a million to be deducted for expenses in administering the public lands, buying them for Indians, paying the annuities incurred on account of them, and effecting the removal of the Indians; instead of the remainder which these deductions would leave, and which in some years would be nothing, and in other years perhaps half a million of dollars, the Senator from Kentucky takes the gross proceeds of the last year, swelled, as it was, with payments due for lands sold before the year 1820, with military and forfeited land scrip, and constructs his table upon that fallacious sum, and then exhibits to the States these large and seductive dividends. But this argument will do upon paper alone. An amendment to confine the distribution to the net proceeds will detect its fallacy, and leave those empty-handed who supposed they were become rich on the spoils of the new States.

Still, this cash argument is the only one the Senator from Kentucky has condescended to use; and let us see how he has used it. He assigns to the States north of the Potomac about one million two hundred and sixty thousand dollars, and to the States south of the Potomac about five hundred and fifty thousand dollars! Thus, the States which surrendered their lands to the Federal Government, are to receive about seven hundred thousand dollars less than those who refused to surrender, and which would now involve the country in a foreign war before they would give up an acre to settle a disputed boundary. Again: the Southern States send emigrants to the new States; the Northern States send but few, and mean to stop those few to work in their factories. The Southern States, then, through their emigration, and the new States, are to furnish the whole sum which is thus to be so unequally divided. The whole is to come from the South and West, and twice the largest share is to pour into the Northeast; thus opening another current, another inland gulf stream, parallel to the tariff stream, the pension stream, the internal improvement stream, and the United States Bank stream, which are now sweeping the wealth of the South and West into the Northeastern cities.

The Senator from Kentucky carries his confidence in the money argument so far as to believe that the new States themselves will be captivated by it; that they will fall in love with the fallacious dividends which he has held out to them, and consent to sell themselves to the old States for a small share of their own spoils. A large table of dividends is displayed before them; but it is all deception and illusion. The dividends will be reduced to insignificance when the expenses of the land system are deducted from the gross receipts; and, even if it stood at the sums carried out in his table, every new State would save more infinitely by a reduction of the price of the land than by receiving a share of her own money. The saving upon the sales of last year, to be effected by a reduction of the price according to the plan recommended by the Land Committee, would be, in Ohio, $214,000; in Indiana, $347,000; in Illinois, $213,000; in Missouri, $187,000; in Alabama, $447,000; in Mississippi, $103,000; and in Louisiana, $43,000.

But it is not by tables, constructed beforehand, that the loss of the new States can be ascertained from such a bill as this. If it passes, their doom is sealed. They become the private property of the old States. To make money out of them will be the only consideration. Every art that ingenuity and avarice can invent, will be put in requisition to swell the amount for distribution. Instead of being reduced, the price of the lands will probably be raised again to the old minimum of two dollars. Instead of preferences to settlers and occupants, they will have to bid for their own labor against the agents of the paramount States who will be sent to superintend the sales, and see that every tract is screwed up to the highest point. The Senator from Kentucky (Mr. CLAY) thinks the price ought to be raised, but he will not move to raise it. Can he go security for his coadjutors? Will they not do it? Those who are to divide the spoil are to make the spoil. They can make it what they please, and certainly will please to make it as great as possible. Nor is it in the price only that the new States may be oppressed and harassed. Innumerable arts may be resorted to in order to enhance the product derivable from the lands. Here is an act passed in the State of Maine, in the year 1828, for the sale of rotten timber and growing grass, and the prosecution of trespassers, which act can be, will soon be, applied to the new States if this scheme of distribution succeeds. Listen to it:

"That it shall be the duty of the land agent to sell at public auction, or private sale, all grass

growing on the public lands from year to year; to take suitable measures for the preservation of grass and timber standing and growing thereon; and to prosecute in behalf of the State for all trespasses which have been, or may be, committed thereon; and to seize and to sell at public auction all kinds of timber and grass cut by trespassers. And the said agent is hereby authorized to sell timber on the public lands where the same is decaying, and in his opinion it is for the public interest to do so!"

This is now a law of Maine; this is a law made by those who are now aiming at the ownership of all our lands. If they succeed, will they be more generous to the people of the new States than to their own citizens? On the contrary, will they not be a thousand times harder? Rotten timber and prairie grass will then be an object of revenue. All cattle and horses will have to be confined on the owner's land, or taken up and sold for the trespass if they stray on the public lands. Agents sent from the old States, and stationed in every township, would watch, not only the farmers and their slaves, but their cattle, their horses, and their hogs, to sue them for trespasses.

This bill has been called a system for settling the business of internal improvement; and under that assumption the bill for granting a township of land to the French college at St. Louis, and the bill to grant half a million of acres to the States of Missouri, Mississippi, and Louisiana, had been laid upon the table. They were laid by to await the establishment of this system, as it is called; but when the internal improvement bills were up to expend a million or so in money, in the Northeast, no motion was made to lay them down. The word system was not then pronounced; this bill for adjusting the business of internal improvement was not once alluded to. All passed without hesitation or question. System, indeed! It is none, and cannot be. It does not even profess to bind a future Congress, and could not if it would. It does not even profess to abstain from future appropriations, and could not prevent them if it tried. Future Congresses will do as they please. Future majorities will do as they please. Unequal appropriations will go on as freely as ever; the only difference will be, that the land revenue will be thrown to that object, in addition to all the expenditures which would otherwise have been made. In one respect only it may be considered as a system, and that a most disastrous one; a system of setting aside the proceeds of particular branches of the revenue, to answer specific purposes, and thus getting clear of surplus revenue without reducing taxes! Land revenue is the branch now to be set aside; the revenue from woollens, cottons, iron, salt, &c., &c., may follow next year. There is no end to that system when once begun. It is now commenced on the weakest part of the Union, because they are the weakest, and the least able to defend themselves. The South is to be tempted into it by a share of the Western spoils; and the next year the West is to be tempted into the continuation of the system, by getting a share of the Southern spoils. Thus a revenue of any amount, twenty-five or thirty millions, may be kept up, by dexterously playing off the South against the West, and the West against the South, and making them alternately co-operate with the Northeast in plundering each other.

It is not a system for the settlement of the internal improvement question. Its object is very different from that. It is a tariff bill; it is an ultra tariff measure; the strongest and the boldest which has been attempted at this session. Tariff is stamped upon its face; tariff is emblazoned upon its borders; tariff is proclaimed in all its features. In the first place, it is intended, by diverting the land revenue from the support of the Government, to create a vacuum in the Treasury, which must be filled up by duties on imported goods. In the next place, it is intended, by keeping up the price of the public lands, to prevent the emigration of laboring people from the manufacturing States, and retain them where they were born, to work in the factories. This is the true character of the bill; a tariff bill; a land tariff bill; conceived according to the plan of Mr. Rush, in 1828, and the memorial of the New York Tariff Convention in November of the last year. The Committee on Public Lands charged this design upon this bill; they quoted Mr. Rush, and the memorial of the New York Tariff Convention, to prove that character upon it; and their charge has not been met. A feeble attempt at the vindication of Mr. Rush has fixed the design more firmly upon him. The Senator from Kentucky (Mr. CLAY) informs the Senate that he suggested to Mr. Rush, before his report was communicated to Congress, that it might be misunderstood, and that he had better omit what related to the public lands and the manufactures. He suggested to him that it might be misunderstood! Yes, misunderstood! and that very phrase proves that it was understood! that the Senator from Kentucky understood it at the first blush precisely as everybody else has understood it ever since. But the memorial of the New York Convention, which has been printed and laid upon our tables, that also is quoted by the Public Land Committee, and no notice is taken of it by the Senator from Kentucky, nor by the Senator from Ohio, (Mr. EWING.) Why do they omit to notice that memorial? Because it is full and plain, express and explicit, up to the mark, and direct and open in favor of preventing emigration to the West for the purpose of detaining the laboring population to work in the factories. There is no room for dispute about it, and, therefore, the Senators who undertake to answer the report of the Land Committee, prudently pass by that memorial, and the unanswerable argument founded upon it, although referred to in the body of the report, and quoted verbatim in the appendix.

The fact is clear; the conclusion irresistible; the character undeniable, that this land bill is a tariff measure; and that the new States are to be oppressed in the price of the public lands, for the purpose of preventing emigration, and of supplying laborers to the factories.

The bill is certainly adroitly drawn; it is calculated upon a wide-spread scheme, and universal design to attract all interests to engage in the oppression of the West. The proceeds of the sales of the public lands are to be divided among all the States, and for all sorts of purposes—to pay old debts for roads and canals, or to make new roads and canals with ready money—to promote education—and to colonize free negroes on the coast of Africa. Certainly these multiplied objects must enlist a great multitude against the new States, and excite their cupidity to the highest degree to get hold of the public domain for their respective objects. One of these objects, from the efforts which have been made to recommend it to public favor, and the profound ignorance which pervades the public mind with respect to its feasibility, demands a word of elucidation; I speak of the colonization scheme; for the prosecution of which this bill commits the federal domain, and the political powers of this Federal Government. A more visionary, a more chimerical, and a more impracticable project never entered the head of man, than this scheme; and this I will demonstrate by facts and reasons which no candid man can permit himself to dispute.

Two distinct views of the project demonstrate this impossibility: first, the experience of Great Britain; secondly, the authentic reports of our own Colonization Society. Each view is conclusive; either, taken separately, puts an end to hope; both, taken together, condemn it irrevocably. All the world knows something, but few know the real history of the British attempt at African colonization. The expense in money and in lives, and the total failure of the undertaking, are but slightly known. The moneyed expense has been prodigious. The chief justice of Sierra Leone, Mr. Jeffcott, in a charge to a grand jury in the capital of the colony, in June, 1830, stated the expense for the last ten years to amount to £7,000,000 sterling, (about 35 millions of dollars;) that the number of Africans brought in during that period was between 18,000 and 19,000; and that the expense of each had been about £300 sterling, (near 1,500 dollars;) and that the total population of the colony was then but little upwards of 20,000 souls. This gives an idea of the expense in money. But a more dreadful account of expenditure is still to be opened. It is the expense of human life! Every Governor sent to the colony had perished under the climate, one only excepted, and he had perished under the knives of the native negroes. The soldiers and sailors sent there were swept off in crowds. No seasoning in any other part of the world could prepare them for the horrors of this African climate. Troops from the West Indies, from the Cape of Good Hope, the East Indies, all shared the same fate. The only difference was, that the drunkards died the first season, and the sober ones the second or third. This waste of life and money induced the British Parliament, in 1826, to open a commission to examine into the state of the colony; the result was a determination to contract their establishments, to withdraw most of their troops, and to surrender all hope of success.

The last annual report of the American Colonization Society proves and establishes the inability of their efforts. Look at their own statements. At page 41, it is stated, and correctly stated, that the annual increase of the black population in the United States is from 75,000 to 80,000 souls, and that it will require this number to be annually carried off to check the growth of that population among us. At page 10, it is stated, and correctly stated, that the arrival of 1,000 emigrant negroes in any one year would be the ruin of the colony! that even that small number of new-comers would make a revolution, and require an armed force to keep the peace among them. Here, then, are two facts, which put an end to the illusions of this scheme. Seventy-five thousand per annum must go, before the increase of the blacks is checked at home—before we can feel any national advantage from it; and the arrival of 1,000 would destroy the colony, and put an end to the project! Can argument, or commentary, add to the force of these two facts, presented by the managers of the Society themselves in their last annual report?*

Individuals may give their money: benevolent persons may follow the impulse of their feelings in bestowing their charity upon this project. Their money is their own, and they may do what they please with it. But can legislators and statesmen follow the same impulsions, and act in the same manner, with respect to the revenues of the people? Can they commit this Government upon a scheme of African colonization, without counting the cost in life and money, and asking themselves if the success is to justify the expenditure? The total English expense in the fifty years of her experiment cannot have been less than eighty or ninety millions of dollars. The destruction of life has been appalling. The description of Edmund Burke has been realized, that it was a region where the gates of death stood open day and night for the reception of its victims. Governors and judges, soldiers and mariners, all go. Our colony is on the same ground. It is not only within the chartered, but within the settled limits of the British colony; the mortality must be the same when our estab-

* The annual increase of the colored population in the United States being about three and a quarter per centum, it would now (1858) require about 190,000 to be annually carried away to stop the home increase.

lishments equal theirs. If this scheme is followed up, and this Federal Government becomes committed to that scheme, a territorial Government must be sent to Africa. A detachment of the army and of the navy must be sent there, and courts armed with strong criminal jurisdiction. If left to themselves, the colony will be in civil war before it reaches 20,000 souls. Violence prevails all over the world. The first man that was born killed the second. Murders, seditions, revolutions, go on everywhere. Can it be expected that this medley of negroes, part from America, part from Africa, some full blood, some half blood, will realize the visionary speculation of human perfectibility, and be kept in order by moral restraints, and the mild punishment of interdiction from the use of fire and water in Africa? For the Roman punishment by exile is the highest now known in our colony. No! these restraints will soon fail. They will fail as they did in the British colony before it reached 20,000, and require all the machinery of a strong Government to keep the negroes in peace. Who is prepared to establish that Government in Africa? To spread our constitution across the Atlantic, and beneath the equator, and stretch it over a race for which it was not made? Who is prepared to expend a hundred millions of money in this attempt, and to send the sons of our farmers—the soldiers and mariners of the republic—to perish on that pestilential coast? Those who are not prepared for these things should stop at once, and refuse to commit their Government upon a project which must involve all these consequences, and, after involving them, must end as the British attempt at colonization has ended, in demonstrating its total impracticability.

As a Western man, as a citizen of one of the new States, I must protest against the application of the public lands to this object. It is several years since things have been taking that turn. Mr. KING, of New York, the most conspicuous author of the Missouri question, first proposed it in the Senate. His resolution was submitted in 1824, but led to no result. The Senator from Kentucky (Mr. CLAY) now moves it in a more formal and determined manner. The managers of the Society have themselves looked to it, and have curiously mixed up a calculation of worldly gain, a question of profit in a moneyed point of view, with this devotion of the public lands to their favorite object. At page 23 of their last annual report, after claiming an appropriation of the public lands, they go on to add, that it should not be forgotten that, whatever appropriations should be made by the Government to this object, the greater part would be expended in giving employment to our shipping and to citizens of the United States. Thus philanthropy and worldly gain are to go hand in hand; the shipping interest and those employed in conducting the scheme are to get the greater part of whatever is expended. The public lands of the West are to fall into the current which is sweeping off every thing else. Farmers of the West are to be required to furnish annually millions—compelled to pay infinitely more for refuse land than citizens of Maine pay for first choices, to furnish money to enrich the shippers, as well as to buy lands to be given as a donation to the negroes carried to Africa; and all this in addition to furnishing as much as will defray the expenses of the State Governments in all the old States.

Mr. B. concluded with showing that the question was now between the plans of the two committees—the Committee on Manufactures, which was for keeping up the price of the lands; and the Committee on Public Lands, who were for reducing the price to one dollar per acre for fresh lands, and fifty cents per acre for such as had been in market five years, with a right of preference to actual settlers; and he called upon all the friends of the West to stand forward and show their friendship on this occasion, by voting down the plan of the Manufacturing Committee, and sustaining that of the Public Land Committee.

FRIDAY, June 29.

Death of Mr. Mitchell.

A message was received from the House of Representatives, by Mr. Clarke, the Clerk of the House, announcing the death of GEORGE E. MITCHELL, one of the Representatives from the State of Maryland, of that House, and that his funeral would take place at 5 o'clock P. M.

On motion of Mr. CHAMBERS, the Senate then came to the following resolution:

Resolved, That the Senate will attend the funeral of the Hon. G. E. MITCHELL, one of the Representatives from the State of Maryland, this day at 5 o'clock P. M., and, as a tribute of respect for the memory of the deceased, that the Senators will go into mourning, by wearing crape on the left arm for thirty days.

On motion of Mr. CHAMBERS,
The Senate then adjourned.

SATURDAY, June 30.

Portrait of Washington.

On motion of Mr. FRELINGHUYSEN, the Senate took up the resolution for the purchase of the original portrait of George Washington, by Rembrandt Peale.

Mr. F. moved to fill the blank with 2,000 dollars. He founded his motion, first, on the accuracy of the likeness, and, secondly, on the nature of the subject itself. He stated the opinions of Judge Marshall, Judge Washington, and other distinguished men, as to the accuracy of the resemblance.

Mr. SMITH stated that Stewart received only 1,000 dollars for his best portraits; and he would have no objection to give 1,000 dollars

for this. Stewart had engaged to make him a copy for 600 dollars, but it could not be obtained from him.

Mr. WEBSTER said that he had taken his idea of Washington from the portraits of Stewart. He admitted the merits of his picture, and said that if it was to be regarded as an original, which he supposed it was, the price ought not to be in the way. An original head of Washington, by Stewart, was lately sold for 1,500 dollars, and the purchaser would not listen to an offer of $5,000 for it. In England, if its character were as high as it is here, it would fetch a much higher price.

Mr. FRELINGHUYSEN then moved to amend the resolution, by adding a provision that the portrait be hung in a conspicuous part of the Senate chamber, under the direction of the President of the Senate, and that the expenses thereof be paid out of the contingent fund; which was agreed to.

The resolution was then ordered to be engrossed, and read a third time.

MONDAY, July 2.

Public Lands.

The Senate proceeded to consider the bill to appropriate, for a limited time, the proceeds of the sales of the public lands.

Mr. HAYNE moved to strike out the words which provide for the distribution of the proceeds among the States. He was opposed to the introduction of the principle of distributing the revenue among the States. He insisted that the proceeds of the public lands did constitute a part of the revenue. The clause which he moved to strike out, cut off a part of the public revenue, taking it from the Treasury to divide it among the States. He made an objection to the distribution also, because it was a division of the gross, instead of the net revenue, and so far as the difference between the gross and net proceeds, it was a division of the duties derived from imports. He admitted the perfect power of Congress to legislate on the subject; but he was opposed to donations of money to the States, and desired to have some general and equitable system adopted for the disposition of the public lands. He asked for the yeas and nays on his motion; which were ordered.

Mr. CLAY rejoiced that the question of the principle of distribution was now to be tested in a simple and a solemn manner. He met the opinion of the Senator from South Carolina, that the division of the proceeds of the public lands would plead to the practice of distributing the proceeds of the taxes among the States, by an opposite one; and declared his own firm and strenuous opposition to the principle of such distribution. He stated that the revenue from the public lands was distinguished from all other revenue by the language of the constitution, and of the deeds of cession, which gave exclusive and unlimited power to Congress over the public lands, and which was not given over any other revenue. This view was supported by the opinions of some of the ablest of our constitutional lawyers; and if it was correct, the argument, therefore, that the division of this revenue would lead to the division of all the surplus revenue, he did not consider as sustainable. He adverted to the argument that the distribution of the gross proceeds would be a distribution in part of revenue from other sources, and stated that the bill authorized the division of the net proceeds only. He detailed what would be the deductions made by the accounting officers under the bill, when they determined the amount of the proceeds applicable to division. The net amount of charges on the annual sales of the public lands did not, he believed, exceed four per cent. He hoped that the question of distribution would be settled, and in such manner as to redound to the happiness and prosperity of every State, and, of consequence, of the whole of the Union.

Mr. HAYNE briefly replied on the subject of the discrimination between the revenue from the public lands and from other sources, and contended that if the construction of the gentleman from Kentucky was correct, there was no limitation to the powers of the General Government; and they might be exercised under a wild discretion, the extent of which could not be anticipated or controlled. He asserted that there ought not to be any surplus money in the Treasury, but that care should be taken to regulate the taxes so as to have no unnecessary amount in the Treasury. He denied that he was anxious to increase the revenue from the public lands. He was willing to place them on a fair and equitable ground.

The question was taken on Mr. HAYNE'S motion, and decided as follows:

YEAS.—Messrs. Benton, Bibb, Brown, Buckner, Ellis, Grundy, Hayne, Hill, Kane, King, Mangum, Marcy, Miller, Moore, Robinson, Smith, Tazewell, Troup, Tyler, White—21.

NAYS.—Messrs. Bell, Chambers, Clay, Clayton, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Hendricks, Holmes, Johnston, Knight, Naudain, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—26.

Mr. SMITH moved that the Senate now adjourn. Negatived—yeas 15, nays 32.

The question now being on the proposition of the Committee on Public Lands to strike out all the sections which authorize the distribution among the States, and the residue of the bill, the question was then taken by yeas and nays, and decided as follows:

YEAS.—Messrs, Benton, Bibb, Brown, Buckner, Ellis, Forsyth, Grundy, Hayne, Hill, Kane, King, Mangum, Miller, Moore, Robinson, Smith, Tazewell, Tipton, Troup, Tyler, White—21.

NAYS.—Messrs. Bell, Chambers, Clay, Clayton, Dickerson, Dudley, Ewing, Foot, Frelinghuysen,

Hendricks, Holmes, Johnston, Knight, Marcy, Naudain, Poindexter, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Waggaman, Webster, Wilkins—26.

Mr. BENTON then moved to introduce an additional section to reduce the price of public lands to one dollar per acre, and of all which have been above five years in market, fifty cents per acre.

On motion of Mr. KANE, the question was divided, and was first taken on the first branch of the amendment, and negatived, as follows:

YEAS.—Messrs. Bell, Benton, Bibb, Brown, Buckner, Ellis, Grundy, Hayne, Hendricks, Hill, Kane, King, Mangum, Moore, Poindexter, Robinson, Smith, Tazewell, Tipton, Troup, White—21

NAYS.—Messrs. Chambers, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Forsyth, Frelinghuysen, Holmes, Johnston, Knight, Marcy, Miller, Naudain, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Tyler, Waggaman, Webster, Wilkins—27.

The question was then taken on the second branch of the amendment, and also negatived, as follows:

YEAS.—Messrs. Benton, Bibb, Buckner, Ellis, Forsyth, Grundy, Hayne, Hendricks, Hill, Kane, King, Mangum, Moore, Poindexter, Robinson, Smith, Tazewell, Tipton, Troup, White—20.

NAYS.—Messrs. Bell, Brown, Chambers, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing, Foot, Frelinghuysen, Holmes, Johnston, Knight, Marcy, Miller, Naudain, Prentiss, Robbins, Ruggles, Seymour, Silsbee, Sprague, Tomlinson, Tyler, Waggaman, Webster, Wilkins—28.

SATURDAY, July 7.

Retiring of the Vice President.

The VICE PRESIDENT informed the Senate that he should not resume his seat in the Senate, and expressed his wish that the Senators might have a safe return to their families.

At half-past seven the Senate adjourned.

MONDAY, July 9.

The Vice President not appearing, the Senate was called to order by the Secretary, when, on motion of Mr. CHAMBERS, the Senate proceeded to the election of a President *pro tem.*

Mr. TAZEWELL was declared to be duly elected, and was conducted to the chair by Mr. SMITH.

The Tariff—Reduction of Duties.

The bill in alteration of the several acts imposing duties on imports having been read the third time, the question was, "Shall this bill pass?"

Mr. GRUNDY said he had been exceedingly desirous that some bill should pass at this session, that would relieve the public burdens, and in some degree restore quiet to an excited section of the country. Under these feelings, he was willing to vote for the bill as it came from the House of Representatives; but, in its present shape, he could not now vote for it. On account of the many amendments made on Saturday, it was impossible for him, at the late hour at which the question on the third reading was taken, to arrive at such a result as to be fully informed of the effects of the bill, and, therefore, unwilling to put it out of his power to vote finally for the bill, if he could, on examination, approve it, he had voted for the third reading. He had since obtained sufficient information to satisfy him that the bill gave no relief; that it contained nothing calculated to allay the excitement that existed against the tariff system; and that, in some instances, it went beyond the present tariff. He was, therefore, compelled to vote against the bill.

Mr. HAYNE said he must throw himself upon the indulgence of the Senate to state the reasons which should induce him to vote against the bill.

I am well aware, said Mr. H., that nothing that can be now said can have the slightest effect on the votes of gentlemen on the other side; and I know that the House, at this late period of the session, is too impatient of delay to admit of protracted discussion on any question. Still I indulge the hope that they will consent to hear what I promise them shall consist of little more than a bare statement of my objections to the bill. I am opposed to the bill in its present shape, Mr. President, because it contains all the objectionable features of the existing tariff.

It recognizes the protecting system as "the settled policy of the country." Ever since the commencement of this system, from the year 1816, nay, from the beginning of the war to the present time, there has always existed in the actual condition of the country some reason, or a plausible excuse, for a system of high duties. During the war we wanted money to carry it on; and after the peace, the enormous public debt which was left upon our hands rendered high duties indispensable to enable the country to fulfil its obligations. I will not say that all the duties imposed were necessary to revenue, but I will fearlessly assert that, but for the demands on the Treasury, the system of high duties, which have acted so powerfully for the protection of manufactures, would never have been established, and could not, possibly, have been maintained for a single year. The successive tariffs of 1816, 1824, and 1828, owed their existence to the condition of the country in relation to the public debt, and the manufacturers had very adroitly connected a protection to their industry with the collection of revenue for the redemption of the public faith. But now that the debt is about to be paid, and a demand on the Treasury for twelve millions of dollars per annum is about to be entirely removed, a new and most interesting question arises, whether the protection

of manufactures is to be made a distinct and substantive object of legislation; and whether taxes, no longer necessary for any legitimate public object, are to be levied, merely for the purpose of affording protection to the manufacturers. It will be seen at a glance that this question calls upon us to take a new and most important step in the legislation of the country. It will be admitted on all hands, that, but for the claims of the manufacturers of woollens, cottons, and iron, the duties on these articles would now be reduced to fifteen per cent.; and if they are to be kept up to fifty, sixty, or one hundred per cent., it will not be because the public want the money, but because the introduction of the foreign articles, at a low rate of duty, would interfere with, or, as gentlemen will have it, prostrate this branch of our domestic industry. The standard which gentlemen propose on this subject, is not the wants of the Treasury, but what they are pleased to call adequate protection to the manufacturers. It must be obvious, therefore, that to adjust the tariff on the plan now proposed, is distinctly to recognize the principle of protection as the settled policy of the country—a principle to which I can never give my consent in any shape. Let me not, on this point, be misunderstood. I am no enemy to the manufacturers. I would not destroy them if I could. Of this I think I have given abundant evidence in the plan I proposed at the beginning of the session, for the settlement of this great question. The resolution which I had the honor to submit as an amendment to that of the Senator from Kentucky, (Mr. CLAY,) was, in substance, a proposition to reduce the revenue, after the payment of the public debt, to the wants of the country. I proposed to do this on principles of perfect justice and equality, and to guard against any shock to the manufacturers, by a sudden reduction of the duties to the lowest revenue standard. I declared my entire willingness that this reduction should be gradual, and spread over several years. I was perfectly willing, provided the duties should be finally brought down to the revenue standard, that gentlemen should almost take their own time for the accomplishment of the object. Nor did this proposition involve the slightest sacrifice of principle; for it entered into my plan, that the debt should spread over several years, so that the duties should be brought down to the proper point, on the final extinction of that debt. Sir, according to this plan, the manufacturers would have enjoyed an incidental protection equal to the amount of duties necessary for revenue. I am not prepared to say how far the reduction on the protected articles would, under this system, have been carried. I presume that fifteen or twenty per cent. *ad valorem* would have been found, eventually, sufficient for all purposes. This, as it seems to me, would, with charges, freight, and insurance, have amounted to a protection of at least thirty-three and a third per cent.; and it has always appeared to me that if, with a permanent protection of one-third of the cost of the article in the home market, our manufacturers cannot enter into a successful competition with the foreign, they must be engaged in a pursuit most unprofitable to the country, and the sooner it is abandoned, the better for all parties concerned.

My next objection to this bill is, that it contains the minimums and the specific duties. I have already stated at large my objection to this feature in the bill, and will not now repeat what I then said. I will only here add, as an additional objection, that the minimums and specific duties create a perpetually increasing tax on the articles embraced by them. It requires no argument to show that a tax of eight cents a yard on cottons costing sixteen cents, which is a tax of only fifty per cent., becomes one hundred per cent., when the article is reduced to eight cents; and such reductions have, for years past, been going on, as we all know, in relation to every article included under the minimum principle. I regard the recognition of this odious principle in the bill now before the Senate, as a lasting establishment of the prohibitory system in this country. The minimums on cottons were at first introduced for the purpose of encouraging the production of coarse cottons. We are told that it has been completely successful; that it is no longer necessary to protection; and yet the system is maintained inviolate, because, as gentlemen insist, it has no operation. The minimums, then, are to be introduced to build up a manufacture, and are to be retained to establish a monopoly; for if gentlemen refuse to abolish them in relation to coarse cottons, we can never, hereafter, expect to have them abolished in any case whatever.

In conclusion, Mr. H. said that to his mind it was perfectly clear that this bill, in its present shape, had not a single feature to recommend it to the favor of any but the fast friends of the American system. It is neither more nor less than the resolution of the Senator from Kentucky reduced to the form of a law. It takes off the duties altogether from almost the entire mass of the unprotected articles, such as tea, coffee, spices, fruits, and a hundred other articles of luxury, and reduces them to almost nothing on silks and wines, while it leaves the protected articles almost untouched, or with additional burdens thrown upon them. In this view of the case, it affords no relief whatever to the South. It only aggravates the injustice of which we complain. It throws the whole burden of federal taxation on the very articles the duties upon which operate as a tax on Southern capital and labor, and as a bounty upon the industry and capital of another section of the Union. The passage of such a bill as this would only be regarded as the consummation of the protecting policy. It leaves no hope for the future. It must rivet upon the country, irretrievably and forever, a

system which he did most conscientiously believe was hostile to the general welfare—utterly unconstitutional—and destructive of the best interests and dearest rights of the plantation States. The gentleman from Kentucky had expressed a hope—doubtless most sincerely entertained—that the South would receive this bill as a peace-offering, founded on concession and compromise; and he had kindly tendered his advice that we should go home, and say to our constituents that we had accomplished all that we had a right to expect; that our grievances were redressed; and thus the country would be once more restored to harmony and peace. Let me tell that gentleman, sir, that if, with my convictions of the true character of this bill, I could go to my constituents with such language on my lips, I should go home "with a lie in my mouth." No, sir! when I speak on such a subject, I shall speak the honest convictions of my mind; and shall be constrained, however reluctantly, to declare, as I now do in the presence of this House, my country, and my God, that the American system has become the settled policy of the country; that the hopes of the South are at an end; and, as far as their prosperity is dependent on federal legislation, their ruin sealed.

Mr. BROWN said, before the question was taken on the final passage of the bill then under consideration, he felt that it was due to those whom he had the honor in part to represent in that body, and likewise to himself, to explain the motives which, on the most deliberate consideration, would induce him to vote in opposition to the bill. This he would do in a very few words. If the question had been brought to the consideration of the Senate, in the form of a bill, at an earlier period of the session, he should have availed himself of the occasion to have expressed his views generally on a subject of such deep and momentous interest to the country. To consume time in unprofitable discussion at that advanced period of the session, would be as little in accordance with his feelings, as it would be respectful to the body which he addressed. He had felt the most anxious solicitude that some adjustment of this question, dictated by a spirit of conciliation, should be made before the adjournment of Congress. Influenced by a spirit of that kind, he had come to the determination to vote for the bill which had passed the House of Representatives, unless made more objectionable by amendments in the Senate. He admitted that the bill, as it came from the House of Representatives, stopped far, very far, short of reducing the revenue to that standard which the condition of our fiscal affairs required, and which justice to a large portion of the Union demanded. But it proposed a reduction, and, from the best examination he had been able to give to the subject, a substantial reduction, on a number of articles which entered extensively into the consumption of the whole agricultural portion of the Southern States. It had been said by one honorable Senator, in the course of this debate, that voting for the bill, as it came from the House, would concede the constitutional right of the Government to protect manufactures. He (Mr. B.) viewed the subject in a very different light. He had yet to learn upon what principle it was unconstitutional to vote for a bill diminishing the burdens of his constituents, and the effect of which would be to mitigate the evils of the system. In expressing his intention to vote for the bill as it came from the House, he wished it to be distinctly understood that he should not have supported it as a measure of compromise. They had no authority to compromise the rights of their constituents on great questions deeply affecting their interests. Nor would he, if he possessed the authority, exercise it in reference to this question.

He was hostile, on principle, to the whole protecting system; and, while he was honored with a seat in that body, he would contribute his humble efforts, on all proper occasions, to eradicate from our laws a principle which he believed incompatible with the enlightened spirit of the age, and of free Government. This much he had deemed it his duty to say in reference to the bill as it came from the House. He would now assign, in a very few words, the reasons which would influence him to vote against it, as amended by the Senate. The amendments had, in his opinion, destroyed whatever of value was contained in the bill, by increasing the duties on the protected articles; and he viewed its passage, in its present shape, as substantially re-enacting some of the most obnoxious features of the tariff of 1828.

He must be permitted, with great deference to the opinions of the majority of the Senate who thought differently, to express his regret that any addition had been made to the rate of duties proposed by the bill from the House of Representatives. To that body the constitution had peculiarly given the power to originate bills on the delicate and interesting question of taxation. It emanated directly from the great body of the people, and was presumed to represent fairly their wishes in relation to that subject; and it had, by a most decided majority, expressed its opinion in favor of a reduction of duties. The extraordinary spectacle was presented in our country of continuing a system of unjust and oppressive taxation, not called for by the exigencies of the nation, but to benefit a few monopolists. He hoped that the justice, intelligence, and patriotism of the people would correct this evil, and save the Union from the disastrous consequences which were likely to result from persevering in such a system.

Mr. CLAY made a few remarks in reply, when

The question was taken, and the bill was passed by the following vote:

YEAS.—Messrs. Bell, Benton, Buckner, Chambers, Clay, Clayton, Dallas, Dickerson, Dudley, Ewing,

Foot, Frelinghuysen, Hendricks, Hill, Holmes, Johnston, Knight, Marcy, Naudain, Prentiss, Robbins, Robinson, Ruggles, Seymour, Silsbee, Smith, Sprague, Tipton, Tomlinson, Waggaman, Webster, Wilkins—32.

NAYS.—Messrs. Bibb, Brown, Ellis, Forsyth, Grundy, Hayne, Kane, King, Mangum, Miller, Moore, Poindexter, Tazewell, Troup, Tyler, White—16.

TUESDAY, July 10.

The Bank Veto.

A Message was received from the President of the United States, returning the act to modify and continue the act to incorporate the subscribers to the Bank of the United States, with his objections to the same.*

Mr. WEBSTER said that the constitution made it the duty of the House to which such communication was made, on receipt of it, to cause it to be recorded at length on its journals, and then solemnly to take the question whether the act shall become a law, the President's objections to the contrary notwithstanding. The constitution prescribes that the House shall proceed to this decision thereupon. It was the practice of Congress to give a proper time for the transcript of the Message, and for a respectful consideration of the subject. In cases of less importance, it was the custom to proceed immediately to the decision. But, in this case, it was respectful to the President, to the length of the paper which had been read, to the high character of the various topics which it embraced, and to the general importance of the subject, that the Senate should assign such day and hour for taking the Message into consideration, as would be agreeable under the existing circumstances. Presuming that the presiding officer would direct the Message to be entered on the journals, he would now move to postpone the further consideration of this communication until eleven o'clock to-morrow.

The motion was agreed to.

WEDNESDAY, July 11.

The Bank Veto.

The hour of eleven having arrived, the Senate proceeded to the consideration of the bill for renewing and modifying the charter of the Bank of the United States, with the Message of the President of the United States, assigning his reasons for refusing to approve and sign the same. And the question being on passing the bill, said objections notwithstanding,

Mr. WEBSTER rose, and addressed the Senate as follows:

Mr. President, no one will deny the high im-

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* The reasons given by the President for returning the act with his objections to it, were, necessarily, in the greater part, the same which had been urged in the elaborate, and often recurring and long-continued previous discussions on the grant, or renewal of the charter, and which appear in this and preceding volumes of this abridgment; but there was one among them of a new kind, growing out of the decision of the Supreme Court of the United States in favor of the constitutionality of the Bank, by which decision he refused to be bound, and in which it is right to give his own words, as follows:

It is maintained by the advocates of the bank, that its constitutionality, in all its features, ought to be considered as settled by precedent, and by the decision of the Supreme Court. To this conclusion I cannot assent. Mere precedent is a dangerous source of authority, and should not be regarded as deciding questions of constitutional power, except where the acquiescence of the people and the States can be considered as well settled. So far from this being the case on this subject, an argument against the bank might be based on precedent. One Congress, in 1791, decided in favor of a bank; another, in 1811, decided against it. One Congress, in 1815, decided against a bank; another, in 1816, decided in its favor. Prior to the present Congress, therefore, the precedents drawn from that source were equal. If we resort to the States, the expressions of legislative, judicial, and executive opinions against the bank have been, probably, to those in its favor, as four to one. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me.

If the opinion of the Supreme Court covered the whole ground of this act, it ought not to control the co-ordinate authorities of this Government. The Congress, the Executive, and the court, must each for itself be guided by its own opinion of the constitution. Each public officer who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others. It is as much the duty of the House of Representatives, of the Senate, and of the President, to decide upon the constitutionality of any bill or resolution which may be presented to them for passage or approval, as it is of the supreme judges, when it may be brought before them for judicial decision. The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and on that point the President is independent of both. The authority of the Supreme Court must not, therefore, be permitted to control the Congress or the Executive, when acting in their legislative capacities, but to have only such influence as the force of their reasoning may deserve.

But, in the case relied upon, the Supreme Court have not decided that all the features of this corporation are compatible with the constitution. It is true that the court have said that the law incorporating the bank is a constitutional exercise of power by Congress. But taking into view the whole opinion of the court, and the reasoning by which they have come to that conclusion, I understand them to have decided that, inasmuch as a bank is an appropriate means for carrying into effect the enumerated powers of the General Government, therefore the law incorporating it is in accordance with that provision of the constitution which declares that Congress shall have power "to make all laws which shall be necessary and proper for carrying those powers into execution." Having satisfied themselves that the word "necessary," in the constitution, means "needful," "requisite," "essential," "conducive to," and that "a bank" is a convenient, a useful, and essential instrument in the prosecution of the Government's "fiscal operations," they conclude that to "use one must be within the discretion of Congress;" and that "the act to incorporate the Bank of the United States, is a law made in pursuance of the constitution." "But," say they, "where the law is not prohibited, and is really calculated to effect any of the objects intrusted to the Government, to undertake here to inquire into the degree of its necessity, would be to pass the line which circumscribes the judicial department, and to tread on legislative ground."

The principle, here affirmed, is, that the "degree of its necessity," involving all the details of a banking institution, is a question exclusively for legislative consideration. A bank is constitutional; but it is the province of the legislature to determine whether this or that particular power, privilege, or exemption, is "necessary and proper" to enable the bank to discharge its duties to the Government; and from their decision there is no appeal to the courts of justice. Under the decision of the Supreme Court, therefore, it is the exclusive province of Congress and the President to decide whether the particular features of this act are "necessary and proper," in order to enable the bank to perform, conveniently and efficiently, the public duties assigned to it as a fiscal agent, and therefore constitutional, or unnecessary and improper, and therefore unconstitutional.

portance of the subject now before us. Congress, after full deliberation and discussion, has passed a bill for extending the duration of the Bank of the United States, by decisive majorities in both Houses. It has adopted this measure not until its attention had been called to the subject in three successive annual Messages of the President. The bill having been thus passed by both Houses, and having been duly presented to the President, instead of signing and approving it, he has returned it with objections. These objections go against the whole substance of the law originally creating the bank. They deny, in effect, that the bank is constitutional; they deny that it is expedient; they deny that it is necessary for the public service.

It is not to be doubted that the constitution gives the President the power which he has now exercised; but, while the power is admitted, the grounds upon which it has been exerted become fit subjects of examination. The constitution makes it the duty of Congress, in cases like this, to reconsider the measure which they have passed, to weigh the force of the President's objections to that measure, and to take a new vote upon the question.

Before the Senate proceeds to this second vote, I propose to make some remarks upon these objections. And, in the first place, it is to be observed that they are such as to extinguish all hope that the present bank, or any bank at all resembling it, or resembling any known similar institution, can ever receive his approbation. He states no terms, no qualifications, no conditions, no modifications, which can reconcile him to the essential provisions of the existing charter. He is against the bank, and against any bank constituted in a manner known either to this or any other country. One advantage, therefore, is certainly obtained by presenting him the bill. It has caused his sentiments to be made known. There is no longer any mystery, no longer a contest between hope and fear, or between those prophets who predicted a veto, and those who foretold an approval. The bill is negatived; the President has assumed the responsibility of putting an end to the bank; and the country must prepare itself to meet that change in its concerns, which the expiration of the charter will produce. Mr. President, I will not conceal my opinion that the affairs of this country are approaching an important and dangerous crisis. At the very moment of almost unparalleled general prosperity, there appears an unaccountable disposition to destroy the most useful and most approved institutions of the Government. Indeed, it seems to be in the midst of all this national happiness, that some are found openly to question the advantages of the constitution itself; many more ready to embarrass the exercise of its just power, weaken its authority, and undermine its foundations. How far these notions may be carried, it is impossible yet to say. We have before us the practical result of one of them. The bank has fallen, or is to fall.

It is now certain that, without a change in our public councils, this bank will not be continued, nor will any other be established, which, according to the general sense and language of mankind, can be entitled to the name. In three years and nine months from the present moment, the charter of the bank expires; within that period, therefore, it must wind up its concerns. It must call in its debts, withdraw its bills from circulation, and cease from all its ordinary operations. All this is to be done in three years and nine months; because, although there is a provision in the charter rendering it lawful to use the corporate name for two years after the expiration of the charter, yet this is allowed only for the purpose of suits, and for the sale of the estate belonging to the bank, and for no other purpose whatever. The whole active business of the bank, its custody of public deposits, its transfers of public moneys, its dealing in exchange, all its loans and discounts, and all its issues of bills for circulation, must cease and determine on or before the 3d day of March, 1836; and, within the same period, its debts must be collected, as no new contract can be made with it, as a corporation, for the renewal of loans, or discount of notes or bills, after that time.

The President is of opinion that this time is long enough to close the concerns of the institution without inconvenience. His language is: "The time allowed the bank to close its concerns is ample, and, if it has been well managed, its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own." Sir, this is all no more than general statement, without fact or argument to support it. We know what the management of the bank has been, and we know the present state of its affairs. We can judge, therefore, whether it be probable that its capital can be all called in, and the circulation of its bills withdrawn, in three years and nine months, by any discretion or prudence in management, without producing distress. The bank has discounted liberally, in compliance with the wants of the community. The amount due to it on loans and discounts, in certain large divisions of the country, is great; so great, that I do not perceive how any man can believe that it can be paid within the time now limited, without distress. Let us look at known facts. Thirty millions of the capital of the bank are now out, on loans and discounts, in the States on the Mississippi and its waters: ten of these millions on the discount of bills of exchange, foreign and domestic, and twenty millions loaned on promissory notes. Now, sir, how is it possible that this vast amount can be collected in so short a period, without suffering, by any management whatever? We are to remember that when the collection of this debt begins, at that same time the existing medium of payment,

that is, the circulation of the bills of the bank, will begin also to be restrained and withdrawn, and thus the means of payment must be limited just when the necessity of making payment becomes pressing. The whole debt is to be paid, and within the same time the whole circulation withdrawn.

The local banks, where there are such, will be able to afford little assistance; because they themselves will feel a full share of the pressure. They will not be in a condition to extend their discounts; but, in all probability, obliged to curtail them. Whence, then, are the means to come for paying this debt, and in what medium is payment to be made? If all this may be done, with but slight pressure on the community, what course of conduct is to accomplish it? How is it to be done? What other thirty millions are to supply the place of these thirty millions, now to be called in? What other circulation or medium of payment is to be adopted, in the place of the bills of the bank? The Message following a singular strain of argument which had been used in this House, has a loud lamentation upon the suffering of the Western States, on account of their being obliged to pay even interest on this debt. This payment of interest is, itself, represented as exhausting their means, and ruinous to their prosperity. But if the interest cannot be paid without pressure, can both interest and principal be paid in four years without pressure? The truth is, the interest has been paid, is paid, and may continue to be paid without any pressure at all; because the money borrowed is profitably employed by those who borrow it, and the rate of interest which they pay is at least two per cent. lower than the actual value of money in that part of the country. But to pay the whole principal in less than four years, losing, at the same time, the existing and accustomed means and facilities of payment created by the bank itself, and to do this without extreme embarrassment, without absolute distress, is, in my judgment, impossible. I hesitate not to say, that, as this veto travels to the West, it will depreciate the value of every man's property, from the Atlantic States to the capital of Missouri. Its effects will be felt in the price of lands, the great and leading article of Western property; in the price of crops; in the products of labor; in the repression of enterprise; and in embarrassment to every kind of business and occupation. I take this opinion strongly, because I have no doubt of its truth, and am willing its correctness should be judged by the event. Without personal acquaintance with the Western States, I know enough of their condition to be satisfied with what I have predicted must happen. The people of the West are rich, but their riches consist in their immense quantities of excellent land, in the products of these lands, and in their spirit of enterprise. The actual value of money, or rate of interest, with them is high, because their pecuniary capital bears little proportion to their landed interest. At an average rate, money is not worth less than eight per cent. per annum throughout the whole Western country, notwithstanding that it has now a loan, or an advance, from the bank of thirty millions, at six per cent. To call in this loan at the rate of eight millions a year, in addition to the interest on the whole, and to take away, at the same time, that circulation which constitutes so great a portion of the medium of payment throughout that whole region, is an operation which, however wisely conducted, cannot but inflict a blow on the community of tremendous force and frightful consequences. The thing cannot be done without distress, bankruptcy, and ruin to many. If the President had seen any practicable manner in which this change might be effected, without producing these consequences, he would have rendered infinite service to the community by pointing it out. But he has pointed out nothing, he has suggested nothing; he contents himself with saying, without giving any reason, that if the pressure be heavy, the fault will be the bank's. I hope this is not merely an attempt to forestall opinion, and to throw on the bank the responsibility of those evils which threaten the country, for the sake of removing it from himself.

The responsibility justly lies with him, and there it ought to remain. A great majority of the people are satisfied with the bank as it is, and desirous that it should be continued. They wished no change. The strength of this public sentiment has carried the bill through Congress, against all the influence of the Administration, and all the power of organized party. But the President has undertaken, on his own responsibility, to arrest the measure, by refusing his assent to the bill. He is answerable for the consequences, therefore, which necessarily follow the change which the expiration of the bank charter may produce: and if these consequences shall prove disastrous, they can fairly be ascribed to his policy only, and to the policy of his Administration.

As to the time of passing this bill, it would seem to be the last thing to be thought of as a ground of objection by the President; since, from the date of his first Message to the present time, he has never failed to call our attention to the subject with all possible apparent earnestness. So early as December, 1829, in his Message to the two Houses, he declares that he "cannot, in justice to the parties interested, too soon present the subject to the deliberate consideration of the Legislature, in order to avoid the evils resulting from precipitancy, in a measure involving such important principles and such deep pecuniary interests." Aware of this early invitation given to Congress to take up the subject, by the President himself, the writer of the Message seems to vary the ground of objection, and, instead of complaining that the time of bringing forward this measure was premature, to insist, rather, that, after the report of the committee of the other House, the

bank should have withdrawn its application for the present! But that report offers no just ground, surely, for such withdrawal. The subject was before Congress; it was for Congress to decide upon it, with all the light shed by the report; and the question of postponement was lost, having been made in both Houses, by clear majorities in each. Under such circumstances, it would have been somewhat singular, to say the least, if the bank itself had withdrawn its application. It is indeed known to everybody, that the report of the committee, or any thing contained in that report, was very little relied on by the opposers of the renewal. If it has been discovered elsewhere that that report contained matter important in itself, or which should have led to further inquiry, it may be proof of superior sagacity; but certainly no such thing was discerned by either House of Congress.

But, sir, do we not now see that it was time, and high time to press this bill, and to send it to the President? Does not the event teach us that the measure was not brought forward one moment too early? The time had come when the people wished to know the decision of the Administration on the question of the bank. Why conceal it, or postpone its declaration? Why, as in regard to the tariff, give one set of opinions for the North, and another for the South?

An important election is at hand, and the renewal of the bank charter is a pending object of great interest, and some excitement. Should not the opinions of men high in office, and candidates for re-election, be known, on this as on other important public questions? Certainly, it is to be hoped that the people of the United States are not yet mere man-worshippers, that they do not choose their rulers without some regard to their political principles, or political opinions. Were they to do this, it would be to subject themselves voluntarily to the evils which the hereditary transmission of power, independent of all personal qualifications, inflicts on other nations. They will judge their public servants by their acts, and continue, or withhold, their confidence, as they shall think it merited, or as they shall think it forfeited. In every point of view, therefore, the moment had arrived, when it became the duty of Congress to come to a result in regard to this highly important measure. The interests of the Government, the interest of the people, the clear and indisputable voice of public opinion, all called upon Congress to act without further loss of time. It has acted, and its act has been negatived by the President; and this result of the proceedings here places the question, with all its connections and all its incidents, fully before the people.

From the commencement of the Government it has been thought desirable to invite, rather than to repel, the introduction of foreign capital. Our stocks have all been open to foreign subscriptions, and the State banks, in like manner, are free to foreign ownership. Whatever State has created a debt, has been willing that foreigners should become purchasers, and desirous of it. How long is it, sir, since Congress itself passed a law, vesting new powers in the President of the United States over the cities in this District, for the very purpose of increasing their credit abroad, the better to enable them to borrow money to pay their subscriptions to the Chesapeake and Ohio Canal? It is easy to say that there is danger to liberty, danger to independence, in a bank open to foreign stockholders—because it is easy to say any thing. But neither reason nor experience proves any such danger. The foreign stockholder cannot be a director. Has no voice even in the choice of directors. His money is placed entirely in the management of the directors appointed by the President and Senate, and by the American stockholders. So far as there is dependence, or influence, either way, it is to the disadvantage of the foreign stockholder. He has parted with the control over his own property, instead of exercising control over the property or over the actions of others. And, sir, let it now be added, in further answer to this whole class of objections, that experience has abundantly confuted them all. This Government has existed forty-three years, and has maintained, in full being, and operation, a bank, such as is now proposed to be renewed, for thirty-six years out of the forty-three. We have never for a moment had a bank not subject to every one of these objections. Always foreigners might be stockholders; always foreign stock has been exempt from State taxation, as much as at present; always the same power and privileges; always all that which is now called a "monopoly," a "gratuity," a "present," has been possessed by the bank. And yet there has been found no danger to liberty, no introduction of foreign influence, and no accumulation of irresponsible power in a few hands. I cannot but hope, therefore, that the people of the United States will not now yield up their judgment to those notions, which would reverse all our past experience, and persuade us to discontinue a useful institution, from the influence of vague and unfounded declamation against its danger to the public liberties.

I now proceed, sir, to a few remarks upon the President's constitutional objections to the bank; and I cannot forbear to say, in regard to them, that he appears to me to have assumed very extraordinary grounds of reasoning. He denies that the constitutionality of the bank is a settled question. If it be not, will it ever become so, or what disputed question can be settled? I have already observed, that for thirty-six years out of the forty-three, during which the Government has been in being, a bank has existed, such as is now proposed to be continued.

As early as 1791, after great deliberation, the first bank charter was passed by Congress,

and approved by President Washington. It established an institution, resembling, in all things now objected to, the present bank. That bank, like this, could take lands in payment of its debts; that charter, like the present, gave the States no power of taxation; it allowed foreigners to hold stock, it restrained Congress from creating other banks. It gave, also, exclusive privileges, and in all particulars it was, according to the doctrines of the Message, as objectionable as that now existing. The bank continued twenty years. In 1816, the present institution was established, and has been ever since in full operation. Now, sir, the question of the power of Congress to create such institutions has been contested in every manner known to our constitution and laws. The forms of the Government furnish no new mode in which to try this question. It has been discussed over and over again, in Congress: it has been argued and solemnly adjudged in the Supreme Court; every President, except the present, has considered it a settled question; many of the State Legislatures have instructed their Senators to vote for the bank; the tribunals of the States, in every instance, have supported its constitutionality; and, beyond all doubt and dispute, the general public opinion of the country has at all times given, and does now give, its full sanction and approbation to the exercise of this power as being a constitutional power. There has been no opinion questioning the power, expressed, or intimated, at any time, by either House of Congress, by any President, or by any respectable judicial tribunal. Now, sir, if this practice of near forty years, if these repeated exertions of the power, if this solemn adjudication of the Supreme Court, with the concurrence and approbation of public opinion, do not settle the question, how is any question ever to be settled, about which any one may choose to raise a doubt? The argument of the Message, upon the congressional precedents, is either a bold and gross fallacy, or else it is an assertion without proofs, and against known facts. The Message admits that, in 1791, Congress decided in favor of a bank; but it adds that another Congress, in 1811, decided against it. Now, if it be meant, that, in 1811, Congress decided against the bank on constitutional ground, then the assertion is wholly incorrect and against notorious facts. It is perfectly well known that many members in both Houses voted against the bank in 1811, who had no doubt at all of the constitutional power of Congress. They were entirely governed by other reasons given at the time. I appeal, sir, to the honorable member from Maryland, (Mr. SMITH,) who was then a member of the Senate, and voted against the bank, whether he, and others who were on the same side, did not give those votes on other well-known grounds, and not at all on the constitutional ground.

[Mr. SMITH here rose, and said that he voted against the bank in 1811, but not at all on constitutional grounds, and had no doubt such was the case with other members.]

We all know, sir, continued Mr. W., the fact to be as the gentleman from Maryland has stated it. Every man who recollects, or who has read the political occurrences of that day, knows it. Therefore, if the Message intends to say that, in 1811, Congress denied the existence of any such constitutional power, the declaration is unwarranted—is altogether at variance with the facts. If, on the other hand, it only intends to say that Congress decided against the proposition then before it, on some other grounds, then it alleges that which is nothing at all to the purpose. The argument, then, either assumes for truth that which is not true, or else the whole statement is immaterial and futile. But, whatever value others may attach to this argument, the Message thinks so highly of it, that it proceeds to repeat it. "One Congress," it says, "in 1815, decided against a bank; another, in 1816, decided in its favor. There is nothing in precedent, therefore, which, if its authority were admitted, ought to weigh in favor of the act before me." Now, sir, since it is known to the whole country, one cannot but wonder how it should remain unknown to the President, that Congress did not decide against a bank in 1815. On the contrary, that very Congress passed a bill for creating a bank by very large majorities. In one form, it is true, the bill failed in the House of Representatives, but the vote was reconsidered, the bill recommitted, and finally passed by a vote of one hundred and twenty to thirty-nine. There is, therefore, not only no solid ground, but not even any plausible pretence, for the assertion that Congress, in 1815, decided against the bank. That very Congress passed a bill to create a bank, and its decision, therefore, is precisely the other way, and is a direct practical precedent in favor of the constitutional power. What are we to think of a constitutional argument, which deals in this way with historical facts? When the Message declares, as it does declare, that there is nothing in precedent which ought to weigh in favor of the power, it sets at naught repeated acts of Congress affirming the power, and it also states other acts which were, in fact, and which are well known to have been directly the reverse of what the Message represents them. There is not, sir, the slightest reason to think that any Senate, or any House of Representatives, ever assembled under the constitution, contained a majority that doubted the constitutional existence of the power of Congress to establish a bank. Whenever the question has arisen, and has been decided, it has been always decided one way. The legislative precedents all assert and maintain the power; and these legislative precedents have been the law of the land for almost forty years. They settle the construction of the constitution, and sanction the exercise of the power in question so far as these ends can ever be accomplished by

any legislative precedents whatever. But the President does not admit the authority of precedent. Sir, I have always found that those who habitually deny most vehemently the general force of precedent, and assert most strongly the supremacy of private opinion, are yet, of all men, most tenacious of that very authority of precedent whenever it happens to be in their favor. I beg leave to ask, sir, upon what ground, except that of precedent, and precedent alone, the President's friends have placed his power of removal from office. No such power is given by the constitution in terms, nor anywhere intimated throughout the whole of it; no paragraph or clause of that instrument recognizes such a power. To say the least, it is as questionable, and has been as often questioned, as the power of Congress to create a bank; and, enlightened by what has passed under our own observation, we now see that it is, of all powers, the most capable of flagrant abuse. Now, sir, I ask, again, what becomes of this power, if the authority of precedent be taken away? It has all along been denied to exist, it is nowhere found in the constitution, and its recent exercise, or, to call things by their right names, its recent abuse, has, more than any other single cause, rendered good men either cool in their affections towards the Government of their country, or doubtful of its long continuance. Yet this power has precedent, and the President exercises it. We know, sir, that without the aid of that precedent, his acts could never have received the sanction of this body, even at a time when his voice was somewhat more potential here than it now is, or, as I trust, ever again will be.

Does the President, then, reject the authority of all precedent, except what is suitable to his own purposes to use? And does he use, without stint or measure, all precedents which may augment his own power, or gratify his wishes? But if the President thinks lightly of the authority of Congress, in construing the constitution, he thinks still more lightly of the authority of the Supreme Court. He asserts a right of individual judgment on constitutional questions, which is totally inconsistent with any proper administration of the Government, or any regular execution of the laws. Social disorder, entire uncertainty in regard to individual rights, and individual duties, the cessation of legal authority, confusion, the dissolution of free Government—all these are the inevitable consequences of the principles adopted by the Message, whenever they shall be carried to their full extent. Hitherto it has been thought that the final decision of constitutional questions belonged to the supreme judicial tribunal. The very nature of free Government, it has been supposed, enjoins this: and our constitution, moreover, has been understood so to provide, clearly and expressly. It is true that each branch of the Legislature has an undoubted right, in the exercise of its functions, to consider the constitutionality of a law proposed to be passed. This is naturally a part of its duty, and neither branch can be compelled to pass any law, or do any other act, which it deems to be beyond the reach of its constitutional power. The President has the same right when a bill is presented for his approval; for he is, doubtless, bound to consider, in all cases, whether such will be compatible with the constitution, and whether he can approve it consistently with his oath of office. But when a law has been passed by Congress, and approved by the President, it is now no longer in the power, either of the same President, or his successors, to say whether the law is constitutional or not. He is not at liberty to disregard it; he is not at liberty to feel or to affect "constitutional scruples," and to sit in judgment himself on the validity of a statute of the Government, and to nullify it if he so chooses. After a law has passed through all the requisite forms; after it has received the requisite legislative sanction and the Executive approval, the question of its constitutionality then becomes a judicial question, and a judicial question alone. In the courts, that question may be raised, argued, and adjudged; it can be adjudged nowhere else.

The President is as much bound by the law as any private citizen, and can no more contest its validity than any private citizen. He may refuse to obey the law, and so may a private citizen; but both do it at their own peril, and neither of them can settle the question of its validity. The President may say a law is unconstitutional, but he is not the judge. Who is to decide that question? The judiciary, alone, possesses this unquestionable and hitherto unquestioned right. The judiciary is the constitutional tribunal of appeal, for the citizens, against both Congress and the Executive, in regard to the constitutionality of laws. It has this jurisdiction expressly conferred upon it; and when it has decided the question, its judgment must, from the very nature of all judgments that are final, and from which there is no appeal, be conclusive. Hitherto, this opinion, and a correspondent practice, have prevailed in America, with all wise and considerate men. If it were otherwise, there would be no government of laws; but we should all live under the government, the rule, the caprices of individuals. If we depart from the observance of these salutary principles, the Executive power becomes at once purely despotic; for the President, if the principle and the reasoning of the Message be sound, may either execute, or not execute, the laws of the land, according to his sovereign pleasure. He may refuse to put into execution one law, pronounced valid by all the branches of the Government, and yet execute another, which may have been, by constitutional authority, pronounced void. On the argument of the Message, the President of the United States holds, under a new pretence, a dispensing power over the laws, as absolute as was claimed by James

the Second of England, a month before he was compelled to fly the kingdom. That which is now claimed for the President is, in truth, nothing less, and nothing else, than the old dispensing power asserted by the Kings of England in the worst of times—the very climax, indeed, of all the preposterous pretensions of the Tudor and the Stuart races.

According to the doctrines put forth by the President, although Congress may have passed a law, and although the Supreme Court may have pronounced it constitutional, yet it is, nevertheless, no law at all, if he, in his good pleasure, sees fit to deny its effect; in other words, to repeal and annul it. Sir, no President, and no public man, ever before advanced such doctrines in the face of the nation. There never was before a moment in which any President would have been tolerated in asserting such a claim to despotic power. After Congress has passed the law, and the Supreme Court has pronounced its judgment on the very point in controversy, the President has set up his own private judgment against its constitutional interpretation. It is to be remembered, sir, that it is the present law, it is the act of 1816, it is the present charter of the bank, which the President pronounces to be unconstitutional. It is no bank to be created, it is no law proposed to be passed, which he denounces; it is the law now existing, passed by Congress, approved by President Madison, and sanctioned by a solemn judgment of the Supreme Court, which he now declares unconstitutional, and which, of course, so far as it may depend on him, cannot be executed.

If these opinions of the President be maintained, there is an end of all law and all judicial authority. Statutes are but recommendations, judgments no more than opinions. Both are equally destitute of binding force. Such a universal power as is now claimed for him, a power of judging over the laws, and over the decisions of the tribunal, is nothing else than pure despotism. If conceded to him, it makes him, at once, what Louis the Fourteenth proclaimed himself to be, when he said, "I am the State."

The Supreme Court has unanimously declared and adjudged that the existing bank is created by a constitutional law of Congress. As has been before observed, this bank, so far as the present question is concerned, is like that which was established in 1791 by Washington, and sanctioned by the great men of that day. In every form, therefore, in which the question can be raised, it has been raised, and has been settled. Every process, and every mode of trial known to the constitution and laws, has been exhausted; and always, and without exception, the validity has been in favor of the law. But all this practice, all this precedent, all this public approbation, all this solemn adjudication directly on the point, is to be disregarded and rejected, and the constitutional power flatly denied. And, sir, if we are startled at this conclusion, our surprise will not be lessened when we examine the argument by which it is maintained. By the constitution, Congress is authorized to pass all laws "necessary and proper" for carrying its own legislative powers into effect. Congress has deemed a bank to be "necessary and proper" for these purposes, and it has, therefore, established a bank. But although the law has been passed, and the bank established, and the constitutional validity of its charter solemnly adjudged, yet the President pronounces it unconstitutional, because some of the powers bestowed on the bank are, in his opinion, not necessary or proper. It would appear that powers which, in 1791 and 1816, in the time of Washington, and in the time of Madison, were deemed "necessary and proper," are no longer to be so regarded, and therefore the bank is unconstitutional. It has really come to this, that the constitutionality of a bank is to depend upon the opinion which one particular man may form of the utility or necessity of some of the clauses of its charter. If that individual chooses to think that a particular power contained in the charter is not necessary to the proper constitution of the bank, then the act is unconstitutional.

Hitherto it has always been supposed that the question was of a very different nature. It has been thought that the policy of granting a particular charter may be materially dependent on the structure, and organization, and powers of the proposed institution. But its general constitutionality has never before been understood to turn on such points. This would be making its constitutionality depend on subordinate questions, on questions of expediency, and questions of detail; upon that which one man may think necessary, and another may not. If the constitutional question were made to hinge on matters of this kind, how could it ever be decided? All would depend on conjecture, on the complexional feeling, on the prejudices, on the passions of individuals; or more or less practical skill, or correct judgment, in regard to banking operations, among those who should be the judges; on the impulse of momentary interest, party objects, or personal purposes. Put the question, in this manner, to a court of seven judges, to decide whether a particular bank was constitutional, and it might be doubtful whether they could come to any result, as they might well hold very various opinions on the practical utility of many clauses of the charter.

The question, in that case, would be, not whether the bank, in its general frame, character, and objects, was a proper instrument to carry into effect the powers of the Government; but whether the particular powers, direct or incidental, conferred on a particular bank, were better calculated than all others to give success to its operations. For if not, then the charter would be unwarranted, according to this sort of reasoning, by the constitution.

any legislative precedents whatever. But the President does not admit the authority of precedent. Sir, I have always found that those who habitually deny most vehemently the general force of precedent, and assert most strongly the supremacy of private opinion, are yet, of all men, most tenacious of that very authority of precedent whenever it happens to be in their favor. I beg leave to ask, sir, upon what ground, except that of precedent, and precedent alone, the President's friends have placed his power of removal from office. No such power is given by the constitution in terms, nor anywhere intimated throughout the whole of it; no paragraph or clause of that instrument recognizes such a power. To say the least, it is as questionable, and has been as often questioned, as the power of Congress to create a bank; and, enlightened by what has passed under our own observation, we now see that it is, of all powers, the most capable of flagrant abuse. Now, sir, I ask, again, what becomes of this power, if the authority of precedent be taken away? It has all along been denied to exist, it is nowhere found in the constitution, and its recent exercise, or, to call things by their right names, its recent abuse, has, more than any other single cause, rendered good men either cool in their affections towards the Government of their country, or doubtful of its long continuance. Yet this power has precedent, and the President exercises it. We know, sir, that without the aid of that precedent, his acts could never have received the sanction of this body, even at a time when his voice was somewhat more potential here than it now is, or, as I trust, ever again will be.

Does the President, then, reject the authority of all precedent, except what is suitable to his own purposes to use? And does he use, without stint or measure, all precedents which may augment his own power, or gratify his wishes? But if the President thinks lightly of the authority of Congress, in construing the constitution, he thinks still more lightly of the authority of the Supreme Court. He asserts a right of individual judgment on constitutional questions, which is totally inconsistent with any proper administration of the Government, or any regular execution of the laws. Social disorder, entire uncertainty in regard to individual rights, and individual duties, the cessation of legal authority, confusion, the dissolution of free Government—all these are the inevitable consequences of the principles adopted by the Message, whenever they shall be carried to their full extent. Hitherto it has been thought that the final decision of constitutional questions belonged to the supreme judicial tribunal. The very nature of free Government, it has been supposed, enjoins this: and our constitution, moreover, has been understood so to provide, clearly and expressly. It is true that each branch of the Legislature has an undoubted right, in the exercise of its functions, to consider the constitutionality of a law proposed to be passed. This is naturally a part of its duty, and neither branch can be compelled to pass any law, or do any other act, which it deems to be beyond the reach of its constitutional power. The President has the same right when a bill is presented for his approval; for he is, doubtless, bound to consider, in all cases, whether such will be compatible with the constitution, and whether he can approve it consistently with his oath of office. But when a law has been passed by Congress, and approved by the President, it is now no longer in the power, either of the same President, or his successors, to say whether the law is constitutional or not. He is not at liberty to disregard it; he is not at liberty to feel or to affect "constitutional scruples," and to sit in judgment himself on the validity of a statute of the Government, and to nullify it if he so chooses. After a law has passed through all the requisite forms; after it has received the requisite legislative sanction and the Executive approval, the question of its constitutionality then becomes a judicial question, and a judicial question alone. In the courts, that question may be raised, argued, and adjudged; it can be adjudged nowhere else.

The President is as much bound by the law as any private citizen, and can no more contest its validity than any private citizen. He may refuse to obey the law, and so may a private citizen; but both do it at their own peril, and neither of them can settle the question of its validity. The President may say a law is unconstitutional, but he is not the judge. Who is to decide that question? The judiciary, alone, possesses this unquestionable and hitherto unquestioned right. The judiciary is the constitutional tribunal of appeal, for the citizens, against both Congress and the Executive, in regard to the constitutionality of laws. It has this jurisdiction expressly conferred upon it; and when it has decided the question, its judgment must, from the very nature of all judgments that are final, and from which there is no appeal, be conclusive. Hitherto, this opinion, and a correspondent practice, have prevailed in America, with all wise and considerate men. If it were otherwise, there would be no government of laws; but we should all live under the government, the rule, the caprices of individuals. If we depart from the observance of these salutary principles, the Executive power becomes at once purely despotic; for the President, if the principle and the reasoning of the Message be sound, may either execute, or not execute, the laws of the land, according to his sovereign pleasure. He may refuse to put into execution one law, pronounced valid by all the branches of the Government, and yet execute another, which may have been, by constitutional authority, pronounced void. On the argument of the Message, the President of the United States holds, under a new pretence, a dispensing power over the laws, as absolute as was claimed by James

the Second of England, a month before he was compelled to fly the kingdom. That which is now claimed for the President is, in truth, nothing less, and nothing else, than the old dispensing power asserted by the Kings of England in the worst of times—the very climax, indeed, of all the preposterous pretensions of the Tudor and the Stuart races.

According to the doctrines put forth by the President, although Congress may have passed a law, and although the Supreme Court may have pronounced it constitutional, yet it is, nevertheless, no law at all, if he, in his good pleasure, sees fit to deny its effect; in other words, to repeal and annul it. Sir, no President, and no public man, ever before advanced such doctrines in the face of the nation. There never was before a moment in which any President would have been tolerated in asserting such a claim to despotic power. After Congress has passed the law, and the Supreme Court has pronounced its judgment on the very point in controversy, the President has set up his own private judgment against its constitutional interpretation. It is to be remembered, sir, that it is the present law, it is the act of 1816, it is the present charter of the bank, which the President pronounces to be unconstitutional. It is no bank to be created, it is no law proposed to be passed, which he denounces; it is the law now existing, passed by Congress, approved by President Madison, and sanctioned by a solemn judgment of the Supreme Court, which he now declares unconstitutional, and which, of course, so far as it may depend on him, cannot be executed.

If these opinions of the President be maintained, there is an end of all law and all judicial authority. Statutes are but recommendations, judgments no more than opinions. Both are equally destitute of binding force. Such a universal power as is now claimed for him, a power of judging over the laws, and over the decisions of the tribunal, is nothing else than pure despotism. If conceded to him, it makes him, at once, what Louis the Fourteenth proclaimed himself to be, when he said, "I am the State."

The Supreme Court has unanimously declared and adjudged that the existing bank is created by a constitutional law of Congress. As has been before observed, this bank, so far as the present question is concerned, is like that which was established in 1791 by Washington, and sanctioned by the great men of that day. In every form, therefore, in which the question can be raised, it has been raised, and has been settled. Every process, and every mode of trial known to the constitution and laws, has been exhausted; and always, and without exception, the validity has been in favor of the law. But all this practice, all this precedent, all this public approbation, all this solemn adjudication directly on the point, is to be disregarded and rejected, and the constitutional power flatly denied. And, sir, if we are startled at this conclusion, our surprise will not be lessened when we examine the argument by which it is maintained. By the constitution, Congress is authorized to pass all laws "necessary and proper" for carrying its own legislative powers into effect. Congress has deemed a bank to be "necessary and proper" for these purposes, and it has, therefore, established a bank. But although the law has been passed, and the bank established, and the constitutional validity of its charter solemnly adjudged, yet the President pronounces it unconstitutional, because some of the powers bestowed on the bank are, in his opinion, not necessary or proper. It would appear that powers which, in 1791 and 1816, in the time of Washington, and in the time of Madison, were deemed "necessary and proper," are no longer to be so regarded, and therefore the bank is unconstitutional. It has really come to this, that the constitutionality of a bank is to depend upon the opinion which one particular man may form of the utility or necessity of some of the clauses of its charter. If that individual chooses to think that a particular power contained in the charter is not necessary to the proper constitution of the bank, then the act is unconstitutional.

Hitherto it has always been supposed that the question was of a very different nature. It has been thought that the policy of granting a particular charter may be materially dependent on the structure, and organization, and powers of the proposed institution. But its general constitutionality has never before been understood to turn on such points. This would be making its constitutionality depend on subordinate questions, on questions of expediency, and questions of detail; upon that which one man may think necessary, and another may not. If the constitutional question were made to hinge on matters of this kind, how could it ever be decided? All would depend on conjecture, on the complexional feeling, on the prejudices, on the passions of individuals; or more or less practical skill, or correct judgment, in regard to banking operations, among those who should be the judges; on the impulse of momentary interest, party objects, or personal purposes. Put the question, in this manner, to a court of seven judges, to decide whether a particular bank was constitutional, and it might be doubtful whether they could come to any result, as they might well hold very various opinions on the practical utility of many clauses of the charter.

The question, in that case, would be, not whether the bank, in its general frame, character, and objects, was a proper instrument to carry into effect the powers of the Government; but whether the particular powers, direct or incidental, conferred on a particular bank, were better calculated than all others to give success to its operations. For if not, then the charter would be unwarranted, according to this sort of reasoning, by the constitution.

This mode of construing the constitution is certainly a novel discovery. Its merits belong entirely to the President and his advisers. According to this rule of interpretation, if the President should be of opinion that the capital of the bank was larger, by a thousand dollars, than it ought to be; or that the time for the continuance of the charter was a year too long; or that it was unnecessary to require it, under penalty, to pay specie; or needless to provide for punishing, as forgery, the counterfeiting of its bills; either of these reasons would be sufficient to render the charter, in his opinion, unconstitutional, invalid, and nugatory. This is a legitimate conclusion from the argument. Such a view of the subject has certainly never before been taken. This strain of reasoning has hitherto not been heard within the Halls of Congress, nor has any one ventured upon it before the tribunals of justice. The first exhibition, its first appearance, as an argument, is in a Message of the President of the United States. According to that mode of construing the constitution, which was adopted by Congress in 1791, and approved by Washington, and which has been sanctioned by the judgment of the Supreme Court, and affirmed by the practice of near forty years, the question upon the constitutionality of the bank involves two inquiries: first, whether a bank, in its general character, and with regard to the general objects with which banks are usually connected, be, in itself, a fit means, a suitable instrument, to carry into effect the powers granted to the Government.

If it be so, then the second, and the only other question is, whether the powers given in a particular charter are appropriate for a bank. If they are powers which are appropriate for a bank, powers which Congress may fairly consider to be useful to the bank or the country, then Congress may confer these powers; because the discretion to be exercised in framing the constitution of the bank belongs to Congress. One man may think the granted powers not indispensable to the particular bank; another may suppose them injudicious, or injurious; a third may imagine that other powers, if granted in their stead, would be more beneficial; but all these are matters of expediency, about which men may differ; and the power of deciding upon them belongs to Congress. I again repeat, sir, that if, for reasons of this kind, the President sees fit to negative a bill, on the ground of its being inexpedient or impolitic, he has a right to do so; but remember, sir, that we are now on the constitutional question. Remember, that the argument of the President is, that because powers were given to the bank by the charter of 1816, which he thinks not necesssary, that charter is unconstitutional. Now, sir, it will hardly be denied, or rather it was not denied or doubted before this Message came to us, that, if there was to be a bank, the powers and duties of that bank must be prescribed in the law creating it. Nobody but Congress, it has been thought, could grant these powers and privileges, or prescribe their limitations. It is true, indeed, that the Message pretty plainly intimates that the President should have been first consulted, and that he should have had the framing of the bill; but we are not yet accustomed to that order of things, in enacting laws, nor do I know a parallel to this claim, thus now brought forward, except that, in some peculiar cases in England, highly affecting the royal prerogatives, the assent of the monarch is necessary, before either the House of Peers or his Majesty's faithful Commons are permitted to act upon the subject, or to entertain its consideration. But supposing, sir, that our accustomed forms and our republican principles are still to be followed, and that a law creating a bank is, like all other laws, to originate with Congress, and that the President has nothing to do with it till it is presented for his approval, then it is clear that the powers and duties of a proposed bank, and all the terms and conditions annexed to it, must, in the first place, be settled by Congress. This power, if constitutional at all, is only constitutional in the hands of Congress. Anywhere else, its exercise would be plain usurpation. If, then, the authority to decide what powers ought to be granted to a bank belong to Congress, and Congress shall have exercised that power, it would seem little better than absurd to say that its act, nevertheless, would be unconstitutional and invalid, if, in the opinion of a third party, it had misjudged, on a question of expediency, in the arrangement of details. According to such a mode of reasoning, a mistake in the exercise of jurisdiction takes away the jurisdiction. If Congress decide right, its decision may stand; if it decide wrong, its decision is nugatory; and, whether its decision be right or wrong, another is to judge, although the original power of making the decision must be allowed to be exclusively in Congress. This is the end to which the argument of the Message will conduct its followers. Sir, in considering the authority of Congress to invest the bank with the particular powers granted to it, the inquiry is not, and cannot be, how appropriate these powers are, but whether they be at all appropriate; whether they come within the range of a just and honest discretion; whether Congress may fairly esteem them to be necessary. The question is not, are they the fittest means, the best means, or whether the bank might not be established without them; but the question is, are they such as Congress, *bona fide*, may have regarded as appropriate to the end. If any other rule were to be adopted, nothing could ever be settled. A law would be constitutional to-day, and unconstitutional to-morrow. Its constitutionality would altogether depend upon individual opinion, on a matter of mere expediency. Indeed, such a case as that is now actually before us. Mr. Madison deemed the powers given to the bank, in its present char-

ter, proper and necessary. He held the bank, therefore, to be constitutional. But the present President, not acknowledging that the power of deciding on these points rests with Congress, nor with Congress and the then President, but, setting up his own opinions as the standard, declares the law now in being unconstitutional, because the powers granted by it are, in his estimation, not necessary and proper. I pray to be informed, sir, whether, upon similar grounds of reasoning, the President's own scheme for a bank, if Congress should do so unlikely a thing as to adopt it, would not become unconstitutional also, if it should so happen that his successor should hold his bank in as light esteem as he holds those established under the auspices of Washington and Madison.

If the reasoning of the Message be well founded, it is clear that the charter of the existing bank is not a law. The bank has no legal existence; it is not responsible to Government; it has no authority to act; it is incapable of being an agent; the President may treat it as a nullity to-morrow, withdraw from it all the public deposits, and set afloat all the existing national arrangements of revenue and finance. It is enough to state these monstrous consequences, to show that the doctrine, principles, and pretensions of the Message are entirely inconsistent with a Government of laws. If that which Congress has enacted be not the law of the land, then the reign of the law has ceased, and the reign of individual opinion has already begun.

What is called the "monopoly," is made the subject of repeated rehearsal, in terms of special complaint. By this "monopoly" I suppose is understood the restriction contained in the charter, that Congress shall not, during the twenty years, create another bank. Now, sir, let me ask, who would think of creating a bank, inviting stockholders into it, with large investments, imposing upon it heavy duties, as connected with the Government, receiving some millions of dollars as a bonus, or premium, and yet retaining the power of granting, the next day, another charter, which would destroy the whole value of the first? If this be an unconstitutional restraint on Congress, the constitution must be strangely at variance with the dictates both of good sense and sound morals. Did not the first Bank of the United States contain a similar restriction? And have not the States granted bank charters, with a condition that, if the charter should be accepted, they would not grant others? States have certainly done so; and, in some instances, where no bonus or premium was paid at all, but from the mere desire to give effect to the charter, by inducing individuals to accept it, and organize the institution. The President declares that this restriction is not necessary to the efficiency of the bank; but that is the very thing which Congress and his predecessor in office were called on to decide, and which they did decide, when the one passed, and the other approved the act. And he has now no more authority to pronounce his judgment on that act, than any other individual in society. It is not his province to decide on the constitutionality of statutes which Congress has passed, and his predecessors approved.

There is another sentiment, in this part of the Message, which we should hardly have expected to find in a paper which is supposed, whoever may have drawn it up, to have passed under the review of professional characters. The Message declares that this limitation to create no other bank is unconstitutional, because, although Congress may use the discretion vested in them, "that they may not limit the discretion of their successors." This reason is almost too superficial to require an answer. Every one at all accustomed to the consideration of such subjects, knows that every Congress can bind its successors to the same extent that it can bind itself: the power of Congress is always the same; the authority of law always the same. It is true we speak of the twentieth Congress, and the twenty-first Congress, but this is only to denote the period of time, or to mark the successive periodical elections of its members. As a politic body, as the legislative power of the Government, Congress is always continuous, always identical. A particular Congress, as we speak of it, for instance, the present Congress, can no further restrain itself from doing what it may chance to do at the next session, than it can restrain any succeeding Congress from doing what it may choose. Any Congress may repeal the act or law of its predecessor, if in its nature it be repealable, just as it may repeal its own act; and if a law, or an act, be irrepealable in its nature, it can no more be repealed by a subsequent Congress than by that which passed it. All this is familiar to everybody. And Congress, like every other Legislature, often passes acts which, being in the nature of grants, or contracts, are irrepealable ever afterwards. The Message, in a strain of argument which it is difficult to treat with ordinary respect, declares that this restriction on the power of Congress, as to the establishment of other banks, is a palpable attempt to amend the constitution by an act of legislation. The reason on which this observation purports to be founded, is, that Congress, by the constitution, is to have exclusive legislation over the District of Columbia; and when the bank charter declares that Congress will create no new bank within the District, it annuls the power of exclusive legislation! I must say that this reasoning hardly rises high enough to entitle it to a passing notice. It would be doing too much credit to call it plausible. No one needs to be informed that exclusive power of legislation is not unlimited power of legislation; and, if it were, how can that legislative power be unlimited that cannot restrain itself, that cannot bind itself by contract? Whether,

as a Government, or as an individual, that being is fettered and restrained which is not capable of binding itself by ordinary obligation. Every Legislature binds itself whenever it makes a grant, enters into a contract, bestows an office, or does any other act or thing which is in its nature irrepealable. And this, instead of detracting from its legislative power, is one of the modes of exercising that power. And the legislative power of Congress over the District of Columbia would not be full and complete if it might not make just such a stipulation as the bank charter contains.

I beg leave to repeat, Mr. President, that what I have now been considering are the President's objections not to the policy or expediency, but to the constitutionality of the bank; and not to the constitutionality of any new or proposed bank, but of the bank as it now is, and as it has long existed. If the President had declined to approve this bill because he thought the original charter unwisely granted, and the bank, in point of policy and expediency, objectionable or mischievous, and in that view only had suggested the reasons now urged by him, his argument, however inconclusive, would have been intelligible, and not, in its whole frame and scope, inconsistent with all well-established first principles. His rejection of the bill, in that case, would have been, no doubt, an extraordinary exercise of power; but it would have been, nevertheless, the exercise of a power belonging to his office, and trusted by the constitution to his discretion. But when he puts forth an array of arguments, such as the Message employs, not against the expediency of the bank, but against its constitutional existence, he confounds all distinctions, mixes questions of policy and questions of right together, and turns all constitutional restraints into mere matters of opinion. As far as its power extends, either in its direct effects, or as a precedent, the Message not only unsettles every thing which has been settled under the constitution, but would show, also, that the constitution itself is utterly incapable of any fixed construction, or definite interpretation; and that there is no possibility of establishing, by its authority, any practical limitations on the powers of the respective branches of the Government.

When the Message denies, as it does, the authority of the Supreme Court to decide on constitutional questions, it effects, so far as the opinion of the President and his authority can effect, a complete change in our Government. It does two things: first, it converts a constitutional limitation of power into mere matters of opinion, and then strikes the judicial department, as an efficient department, out of our system. But the Message by no means stops even at this point. Having denied to Congress the authority of judging what powers may be constitutionally conferred on a bank, and having erected the judgment of the President himself into a standard by which to try the constitutional character of such powers, and having denounced the authority of the Supreme Court, and decided finally on constitutional questions, the Message proceeds to claim for the President, not the power of approval, but the primary power, the power of originating laws. The President informs Congress that he would have sent them such a charter, if it had been properly asked for, as they ought to possess. He very plainly intimates that, in his opinion, the establishment of all laws, of this nature, at least, belongs to the functions of the Executive Government, and that Congress ought to have waited for the manifestation of the Executive will, before it presumed to touch the subject. Such, Mr. President, stripped of their disguises, are the real pretences set up in behalf of the Executive power in this most extraordinary paper.

Mr. President, we have arrived at a new epoch. We are entering on experiments with the Government and the constitution of the country, hitherto untried, and of fearful and appalling aspect. This Message calls us to the contemplation of a future, which little resembles the past. Its principles are at war with all that public opinion has sustained, and all which the experience of the Government has sanctioned. It denies first principles. It contradicts truths heretofore received as indisputable. It denies to the judiciary the interpretation of law, and demands to divide with Congress the origination of statutes. It extends the grasp of Executive pretension over every power of the Government. But this is not all. It presents the Chief Magistrate of the Union in the attitude of arguing away the powers of that Government over which he has been chosen to preside; and adopting, for this purpose, modes of reasoning which, even under the influence of all proper feeling towards high official station, it is difficult to regard as respectable. It appeals to every prejudice which may betray men into a mistaken view of their own interests; and to every passion which may lead them to disobey the impulses of their understanding. It urges all the specious topics of State rights, and national encroachment, against that which a great majority of the States have affirmed to be rightful, and in which all of them have acquiesced. It sows, in an unsparing manner, the seeds of jealousy and ill-will against that Government of which its author is the official head. It raises a cry that liberty is in danger, at the very moment when it puts forth claims to power heretofore unknown and unheard of. It affects alarm for the public freedom, when nothing so much endangers that freedom as its own unparalleled pretences. This, even, is not all. It manifestly seeks to influence the poor against the rich. It wantonly attacks whole classes of the people, for the purpose of turning against them the prejudices and resentments of other classes. It is a State paper which finds no topic too exciting for its use; no passion too inflammable for its

address and its solicitation. Such is the Message. It remains, now, for the people of the United States to choose between the principles here avowed and their Government. These cannot subsist together. The one or the other must be rejected. If the sentiments of the Message shall receive general approbation, the constitution will have perished even earlier than the moment which its enemies originally allowed for the termination of its existence. It will not have survived to its fiftieth year.

Mr. WHITE, of Tennessee, next rose, and addressed the Senate as follows:

Mr. President, pressed as we are for time, I must crave the indulgence of the Senate, while I attempt some answer to the matters urged by the Senator from Massachusetts, to the Message accompanying the bill now to be reconsidered.

I rejoice that, for once, we have a document from the present Chief Magistrate, acknowledged by the opposition to be frank, plain, and susceptible of only one interpretation. Heretofore, the common complaint from that quarter has been that his important communications were so worded as to be interpreted one way in one section of the country, and in a different way in another. Here it is admitted we have a document so worded, as to be understood everywhere alike. The honorable Senator thinks this frankness, on the part of the Chief Magistrate, ought to be met in a corresponding spirit by those who differ from him in opinion. Approving of this course, I shall endeavor to be equally as explicit, in what I propose to say, in answer to his argument.

The Senator thinks, if the charter of this bank is not renewed, ruin to the country is to be the consequence, because the bank must wind up all its concerns. This is nothing but the old argument used in 1811, when the then existing bank applied for a renewal of its charter. Distress to the community, and ruin to the country, were predicted by the advocates of the bank. The predictions were not verified. The capital employed in the bank was not annihilated. It still existed; and in loans to individuals, or in some other shape, it was applied to the uses of the community. Debtors sought and obtained accommodations elsewhere: as the notes of that bank were withdrawn from circulation, their places were supplied by specie, or the paper of local institutions, and little or no inconvenience was experienced; and such will be the case again, should the charter of this bank be allowed to expire in 1836. Debtors worthy of credit will obtain accommodations from either individuals or other banks, and discharge their dues to this; and as the notes of this bank disappear, their places will be supplied by specie, or the paper of other banks, and the mass of the community will, in a short time, hardly be sensible that the operation of winding up has been performed. We have been told that, in the valley of the Mississippi alone, there are due to this bank thirty millions of dollars, twenty millions for loans made, and ten millions for domestic bills of exchange. That the press occasioned by the collection of this debt will be too severe to be borne. The charter has almost four years yet to run, and then two years are allowed for collections, making nearly six years. How often have we been told during this session of the general prosperity of the country, and especially that part of it in the valley of the Mississippi. If these statements have any resemblance to the fact, it ought to be entirely within the power of these debtors, in five or six years, to adjust and pay whatever they may owe. I must repeat what I said on a former occasion: If these debts are real transactions, the adjustment of them will be a simple operation. The paper evidencing these debts will be paid at maturity; and let the bank be careful not to discount when the charter is near expiring, and the whole object will be accomplished. If the transactions are not real, but fictitious, and the paper discounted has assumed the appearance of business paper, for the purpose of obtaining permanent loans, in other words, standing accommodations, the sooner the truth is known, the better to all concerned. The community has a deep interest in this matter: false credit given to individuals by false appearances is an injury to society, and of no actual benefit to individuals; and the sooner such transactions are brought to a close, all the better; the fewer will be the number of sufferers.

If I am not very much mistaken, this opinion was, some years ago, advanced, in a report from the Secretary of the Treasury, whose opinions upon such a subject are entitled to the highest respect.

But, sir, if, when this bank has been in operation only fifteen or sixteen years, the debts have become so numerous, and so large, that we must, on these accounts, renew the charter, I must be allowed to ask, what will be the state of things at the end of thirty-five years? Will they not be much worse? Most certainly they will. What, then, do gentlemen mean? Do they intend that this charter shall become perpetual? That this company, foreigners and all, shall have this monopoly forever? If this be not their intention, I must ask the Senator from Massachusetts to tell us at what time the institution can be wound up, with less inconvenience, than at the expiration of the present charter. When will the debtors in the valley of the Mississippi be better able to pay, than when this charter expires? If the argument of the Senator proves any thing, it proves that this corporation ought to exist forever. Is any gentleman willing to avow this? I am decidedly opposed to it. Pay-day for these debtors must arrive some time; and it appears to me that the affairs of this bank can probably be closed, with less inconvenience to the community, at the expiration of this charter, than they can be fifteen years afterwards.

The Senator says, the President alleges that

the application to renew the charter is premature, and thinks we ought not to be chided by him for acting on the subject, as he had directed the attention of the nation and of Congress to this subject, in his Message of 1829, and in two succeeding Messages.

Mr. President, to me it is obvious that the notice taken of the bank in those Messages was not to recommend to Congress to act upon the subject, at either of the sessions when those Messages were delivered; but, as the subject was esteemed of vital interest to the community, to turn the attention of all to it, at an early period, so that the opinion might be well matured upon it, when the charter was about to expire, and when it would become necessary to act upon it.

But if Congress ought now to act upon it, because the subject is brought before us by those Messages, why was it not acted on at the sessions when these Messages were delivered? Why not at the session in 1829? The Senator has answered the question with frankness. He has told us it is material that it should be known before the Presidential election, whether the President would sign the act renewing the charter or not; because, if he would not, he ought to be turned out, and another put in his place, who will; and as the election is to take place the succeeding fall, application for the renewal could not be longer delayed.

I thank the Senator for the candid avowal, that unless the President will sign such a charter as will suit the directors, they intend to interfere in the election, and endeavor to displace him. With the same candor I state that, after this declaration, this charter shall never be renewed with my consent.

Let us look at this matter as it is. Immediately before the election, the directors apply for a charter, which they think the President at any other time will not sign, for the express purpose of compelling him to sign contrary to his judgment, or of encountering all their hostility in the canvass, and at the polls. Suppose this attempt to have succeeded, and the President, through fear of his election, had signed this charter, although he conscientiously believes it will be destructive of the liberty of the people who have elected him to preside over them, and preserve their liberties, so far as in his power. What next? Why, whenever the charter is likely to expire hereafter, they will come, as they do now, on the eve of the election, and compel the Chief Magistrate to sign such a charter as they may dictate, on pain of being turned out and disgraced. Would it not be far better to gratify this moneyed aristocracy, to the whole extent at once, and renew their charter forever? The temptation to a periodical interference in our elections would then be taken away.

Sir, if, under these circumstances, the charter is renewed, the elective franchise is destroyed, and the liberties and prosperity of the people are delivered over to this moneyed institution, to be disposed of at their discretion, against this I enter my solemn protest.

The honorable Senator next adverts to what the President says on the constitutionality of this act, and animadverts on what is stated in relation to there being two precedents in Congress, where this power is asserted, and two in which it was denied; and then asserts that since the year 1791, when the first bank was chartered, Congress has never denied this power.

Mr. President, it appears to me that, whether the President can show any recorded vote, denying this power or not, the Senator ought not to be too severe upon the Executive for this mistake, if it be one. When a renewal of the charter was applied for in 1811, its constitutionality was argued, and ably argued, by those opposed to it, and the application was rejected. The bank then applied for time to wind up its business; the petition was referred to a committee who reported against the application, alleging that it was unconstitutional, and this report was concurred in. Afterwards, in 1815, when a bank charter was under consideration in the House of Representatives, a member from Massachusetts, in his place, then acting under the same high obligations which the President acts under, arguing against the charter, states expressly that the renewal of the charter had been refused because it was unconstitutional. The President, without doubt, has read this argument, and seen this resolution; and if he reposed confidence in these statements, and was thereby misled, which I suppose he was not, I submit to the honorable Senator whether, under such circumstances, he would not have been entitled to milder treatment from him, than he has received.

The attention of the Senate has been next called to that part of the Message found in page six, in which the decisions of the Supreme Court are spoken of.

The honorable Senator argues that the constitution has constituted the Supreme Court a tribunal to decide great constitutional questions, such as this, and that, when they have done so, the question is put at rest, and every other department of the Government must acquiesce. This doctrine I deny. The constitution vests "the judicial power in a Supreme Court, and in such inferior courts as Congress may from time to time ordain and establish." Whenever a suit is commenced and prosecuted in the courts of the United States, of which they have jurisdiction, and such suit is decided by the Supreme Court, as that is the court of the last resort, its decision is final and conclusive between the parties. But as an authority, it does not bind either the Congress or the President of the United States. If either of these co-ordinate departments is afterwards called upon to perform an official act, and conscientiously believe the performance of that act would be a violation of the constitution, they are not bound to perform it, but, on the contrary, are as much

at liberty to decline acting, as if no such decision had been made. In examining the extent of their constitutional power, the opinion of so enlightened a tribunal as our Supreme Court has been, and I hope ever will be, will always be entitled to great weight; and, without doubt, either Congress or the President would always be disposed, in a doubtful case, to think its decisions correct; but I hope neither will ever view them as authority binding upon them. They ought to examine the extent of their constitutional powers for themselves; and when they have had access to all sources of information within their reach, and given to every thing its due weight, if they are satisfied the constitution has not given a power to do the act required, I insist they ought to refrain from doing it.

Suppose the House of Representatives to have passed an act on a given subject for a number of successive sessions, and from want of time the Senate had not acted on it, and the constitutionality of such an act to come before the Senate, would any member think those opinions of the House authorities by which he was bound? Certainly not. They would have due weight, and be respectfully considered, but disregarded in the decision made by the Senate, if shown to be incorrect. In principle there can be no difference between such cases and the judicial decisions. Suppose the President to recommend, never so often, the passage of an act which he may think constitutional, would the Senate, the House of Representatives, or the courts, feel themselves bound by his opinions? I think not. Each co-ordinate department, within its appropriate sphere of action, must judge of its own powers, when called upon to do its official duties; and if either blindly follow the others, without forming an opinion for itself, an essential check against the exercise of unconstitutional power is destroyed. A mistake by Congress in passing an act, inconsistent with the constitution, followed by a like mistake by the Supreme Court, in deciding such act to be constitutional, might be attended with the most fatal consequences. Let each department judge for itself, and we are safe. If different interpretations are put upon the constitution by the different departments, the people are the tribunal to settle the dispute. Each of the departments is the agent of the people, doing their business according to the powers conferred; and where there is a disagreement as to the extent of these powers, the people themselves, through the ballot boxes, must settle it. The Senator, if I heard him correctly, has said that the President has asserted that the Supreme Court has no power to decide upon the constitutionality of an act of Congress. The gentleman has not attended to the Message with his usual accuracy. No such opinion is advanced, but the contrary, that each department within its appropriate sphere of action has the right to judge for itself, and is not bound by the opinion of both, or either of the others; and this I incline to think is the correct constitutional view of the subject. The honorable Senator thinks the President entirely mistaken when he supposes Congress cannot deprive itself of some of its legislative powers. Let us for a few minutes attend to the view of this part of the subject presented by the Message, and then examine its correctness.

The Congress is vested with exclusive legislative powers over the District of Columbia. It therefore has an undoubted power to establish, within the District, as many banks, with as much capital to each, as it chooses. By this charter, it is stipulated that Congress shall not establish any bank within the District, nor shall it increase the capital of existing banks. This the President thinks is unconstitutional. By this agreement, the present Congress, and its successors, are deprived of the powers of establishing any bank, no matter how pressingly the public interest may require one. Congress by this agreement will have stripped itself of all power to legislate upon a subject during the existence of the charter, when the constitution had vested the most ample powers Is this constitutional? Ought we to be bound by such an agreement for fifteen or twenty years, and permit the best interests of society to be sacrificed for the want of a power which the constitution has conferred, but which we have bartered away? The Message supposes we are not at liberty to dispose of our legislative powers in this manner, and therefore this act is unconstitutional. This is certainly a very important point. If we make such an agreement, we ought to be bound by it; and yet I think cases might occur, in which we ought not to be, nor would we be, bound by any such agreement. The public safety, the public interest, might, long before the expiration of the charter, imperiously demand the establishment of one or more banks within the District, and I do not believe we can constitutionally deprive ourselves or our successors of the power to do so.

Mr. President, we must remember that, in case of a war, this bank, if in existence, must be our main dependence for raising money; and yet there is no provision by which it is bound to loan us one cent. Now, suppose it to have existed during the last war, and the stock to have been owned by British subjects and a few of our own citizens, and those citizens to have belonged to that sect in politics who were seeking to change our federal rulers—who thought it wicked to thank God for our victories upon either land or water—who had sent an embassy to this city to request the then President to resign: does any man believe the Administration could have procured a loan for one cent? Those politicians, I am willing to suppose, were acting honestly; that they believed the war impolitic, unjust, and wicked, so much so that they would not aid it with their good wishes. Does any one suppose that they would not have held it treason against good morals to have loaned pecuniary aid? Surely they would.

We must then have been without money, and without the means of obtaining any. Peace must have been made, and upon any terms dictated by the bank, or by the enemy.

Mr. President, I have endeavored to expand my mind so as to take this enlarged view of the subject, and what I find is, that the advocates of this bank, upon the plea that the bank is necessary for the fiscal concerns of the Government, wish, by construction, to acquire the power to create a bank; and, having thus possessed themselves of the power, wish to use it so as to confer powers not in any degree necessary for a bank to possess, to enable it to do all which the Government may wish to have done, but through which the stockholders may enrich themselves and their friends, and acquire an influence greater than the Government itself, and control all our political concerns in such manner as to gratify their ambition and promote their interests to any extent they may wish. In short, it appears to me that, in creating the bank, the pretence is, through it to do the public business; and as soon as created, the public business is a mere insignificant incident; and private emolument, without limit, is the main design.

Mr. President, in submitting this Message, one of the highest duties of the Chief Magistrate has been performed. Under peculiar and trying circumstances he has given his sentiments, plainly and frankly, as he believed his duty required.

When the excitement of the time in which we act shall have passed away, and the historian and biographer shall be employed in giving his account of the acts of our most distinguished public men, and comes to the name of Andrew Jackson; when he shall have recounted all the great and good deeds done by this man in the course of a long and eventful life, and the circumstances under which this Message was communicated shall have been stated, the conclusion will be, that, in doing this, he has shown a willingness to risk more to promote the happiness of his fellow-men, and to secure their liberties, than by the doing of any other act whatever.

Mr. EWING took the floor. He said he had thus far been an attentive listener to the dicussion which the subject had elicited. In the progress of that discussion, his own views had been in many particulars anticipated. Some parts, however, of the Message, which, in his opinion, required examination, had been but briefly noticed, and others passed over in silence. To such of them, said Mr. E., as I deem the most important, I will now ask the attention of the Senate. But in this discussion I shall be brief—carefully avoiding, as far as may be, a repetition of the subjects already dwelt upon, and arguments already advanced.

This Message contains the Executive condemnation of the Bank of the United States; a universal, unqualified, condemnation of all that it is, and all that Congress had proposed to make it. There is no objection, however unfounded, no argument, however unsound, which has been urged against this institution for years past, both in and out of this capitol, but are collected and thrown together here to make up this extraordinary paper. But its general merits have been already considered. The parts to which I would now more especially invite your attention, are found on the third page of the printed Message, in which, after saying that "all the objectionable principles of the existing corporation, and most of its odious features, are retained without alleviation" in the bill under consideration, proceeds:

"The fourth section provides 'that the notes or bills of the said corporation, although the same be on the faces thereof respectively made payable at one place only, shall, nevertheless, be received by the said corporation at the bank, or at any of the offices of discount and deposit thereof, if tendered in liquidation or payment of any balance or balances due to said corporation, or to such office of discount and deposit, from any other incorporated bank.' This provision secures to the State banks a legal privilege in the Bank of the United States, which is withheld from all private citizens. If a State bank in Philadelphia owe the Bank of the United States, and have notes issued by the St. Louis branch, it can pay the debt with those notes; but if a merchant, mechanic, or other private citizen, be in like circumstances, he cannot, by law, pay his debt with those notes, but must sell them at a discount, or send them to St. Louis to be cashed. This boon conceded to the State banks, though not unjust in itself, is most odious; because it does not measure out equal justice to the high and the low, the rich and the poor. To the extent of its practical effect, it is a bond of union among the banking establishments of the nation, erecting them into an interest separate from that of the people; and its necessary tendency is to unite the Bank of the United States and the State banks in any measure which may be thought conducive to their common interests."

And this is one prominent objection to the bill extending the charter of the Bank of the United States, and one of the reasons for refusing it the sanction of the Executive. This bank, sir, with its present charter, has existed about fifteen years. During that period, its effects upon the country have been tried and tested. The present charter has faults and imperfections. Men of business, pursuing the various avocations of life in a state of society highly complicated, and in its various branches connected and intertwined in a thousand forms of combination, have, in that long period of time, felt all the good and all the evil it contained; but with all its good and all its evil, taken as a whole, it has proved highly beneficial to our country. That it has so, is certain from the united opinion of all men of business, and almost all the local banks in the United States, whose petitions for its renewal load your table—petitions, not of one place, or of one party, or one class of men, but of the people of all classes, all parties, and almost all sections

of the Union—and generally in those petitions they call for an extension of the charter of the bank, without suggesting either variation or modification. Others do suggest existing evils, and ask for a modification which will remove them; but in no one, and from no quarter, do we hear it urged as a complaint that the notes of the bank, wherever payable, are not made a tender at all places for the payment of individual debts to the bank. Was it necessary, then, or was it proper, to insert such provision? Certainly not, unless some evil was to be avoided, or some good to be produced by it.

The present charter of the bank permits them to pay out and put in circulation, at any one of their branches, bills payable at any other branch. The bill before us restricts them, and requires that no notes of a denomination which constitutes currency shall be paid out or put in circulation which are not made payable at the place where they are so issued. If, then, an individual borrow money at a branch, and agree to pay it at the same place, is it, I ask, necessary for his protection, or consistent with mercantile habits and principles, that he should be allowed as a legal right, to tender in payment of this loan the notes of the person (or the bank) of whom he borrows, payable a thousand miles off? It may be just enough, once adopted as a rule of law; but it would be embarrassing in the extreme to the lender, and it would compel him to diminish the amount of his loans in order to sustain his credit. But can any injury happen to the borrower by the want of such provision? Every individual who borrows at a bank knows when pay-day comes, and if he be provident, he prepares for it. Should the bank hold him to the strict law, and require him to pay in the notes of the branch, or specie, he has time to prepare himself with such funds as may suit his purpose, by exchanges, which are always easily effected. As, for example, a trader or mechanic at Cincinnati borrows money payable at that place, and he is required to pay in notes of that branch, or specie; now the notes that, under this charter, would circulate there, are those of Cincinnati, Louisville, and Pittsburg. If the debtor had one-third of the amount due in notes of each of those branches, and the bank at Cincinnati should refuse to receive any but its own notes, every man of business knows that an hour would be ample time to exchange to the amount of any moderate loan, and without a premium, for such funds as the branch could not refuse. But the supposition that this would ever be required by the bank, is perfectly idle. They have to deal with the people, and the good will of their customers is the source both of their convenience and their profit. It would be wanton folly in them to refuse notes of any of their branches in payment of the debts due them, whenever obtained by a borrower in the due course of business, and fairly offered for that purpose. They never have, that I have ever heard of, as yet, in the whole course of their business, and I presume they never will, unless their officers become insane, or an unexpected change in business should render it necessary for self-preservation. But compel them by law to do that which they now do voluntarily, and great mischief might follow. In the fluctuations of trade there will frequently be heavy drains upon the specie of our great commercial cities. In those cities flows from every part of the Union the paper of all the branches, brought there by traders as the funds easiest of transportation for the purchase of merchandise. There, too, the heaviest loans are made to individuals, and the amount becoming due to the bank, in a single day, is sometimes immense. Now, in this state of things, suppose one of these sudden and heavy pressures upon the money market in New York, and the Bank of the United States and the other banks in that city are drawn on at once for one or two millions of dollars of specie, and this bank compelled to receive the paper of remote branches in payment of debts, is it not obvious at once that they would bear the whole pressure, in the first instance, at least to the extent of all the notes of all the branches in the money market of the place? The Manhattan Bank, for example, has $100,000 of the paper of the remote branches, and wishes to make it available at once in specie:, that bank would, through the medium of brokers, bid up a small premium in the bills on remote branches, for those payable at the branch in New York, and the debtors who were about to pay the money on their own notes would make the exchange and take the premium, and the Manhattan Bank would return the notes of the branch in New York, and compel the payment of specie. Thus every sudden pressure would be cast wholly upon this institution, their business would be cramped, and their discounts limited, and no good or useful purpose whatever effected by it. So much as to the propriety of this extension of the general privilege of tender to individuals.

With respect to banks, the case is wholly different. They are the rivals, not the customers, of this institution. If their jealousy should ever be excited against any; if they should, from any cause, attempt the oppression or overthrow of any interest in the country, it would be the local institutions, the other chartered banks in the United States; and it is against the possibility of such oppression that this fourth section was intended to guard.

But it is further said, and it is the last mischief discussed under this head, that the necessary tendency of this provision is "to unite the Bank of the United States and the State banks in any measure which may be thought conducive to their common interest."

There is but one possible mode in which this provision of the charter would produce the effect proposed, and that is by removing a source of controversy and discord between them, preventing future collisions, and enabling them

to pursue more harmoniously the general objects of their creation; for unless strife and discord prevent it, all men and all institutions who possess an ordinary share of wisdom and foresight, will pursue that which is conducive to their interest; and if the same object be conducive to the interest of the whole people, or a whole class of incorporated institutions, they will, unless the predominance of evil passions prevent it, unite in its pursuit. This provision might have had the effect of removing causes of animosity between the national and State institutions, and have allayed or prevented the occurrence of hostile or unkindly feelings between those who directed them, and thus have enabled them to pursue their common interest without jealousy or collision, and by their united means to advance the common interests of our country. But I cannot, for myself, divine why the removal of a subject of discord between that and the State institutions should be made an objection fatal to the bill. This difficulty, if it be one, lies too deep for my intellect to fathom it. Surely the President did not intend to convey the idea that the Bank of the United States and the State banks would, by this provision, be induced "necessarily" to unite in oppressing the people. No man possessing ordinary intelligence could entertain an opinion of this kind, and, if not entertained, certainly it could not be intentionally advanced. Unite against the people! Why, sir, let this bank and the State bank settle their accounts with each other as they will, or let the law settle for them as it may, they are still, and always must be, rivals in trade, and their competition compels them, and must always compel them, to treat their customers not only with justice but with courtesy; and no man in this age and nation will believe, let it be insinuated from what quarter it may, that a law compelling the Bank of the United States to receive the paper of the branches in payment from the State banks, will form a bond of union between them, and unite them against the people, on whose good will they both depend.

I have said that the States have an undoubted right to tax the stockholders residing within their limits for all the stock which they hold in the Bank of the United States. The right of taxation, as to debts, contracts, stocks, every thing which is of untangible nature, (not issuing out of real estate,) and is, therefore, of no place, is determined by the domicil of the owner; it is supposed to exist there, and, if taxed at all, it is in the State or kingdom in which its owner resides. Take, for example, the case of a man resident in Virginia, loaning money to a citizen of Ohio. Could Ohio tax the lender in consequence of the loan? Certainly not. But the money in the hands of the borrower, dispose of it however he might—whether he retained it on hand, or converted it into property, or loaned it again—would become at once a subject of taxation in Ohio. It is the same between kingdoms as States; a long-established principle of international law, never departed from in times of peace and amity: and even in war, confiscation, or the suspension of the rights of the creditor, and not taxation, is the usual resort against the credits of the alien enemy.

There is another clause in the third page of the Message, to which I now ask the attention of the Senate:

"It has been urged as an argument in favor of re-chartering the present bank, that the calling in its loans will produce great embarrassment and distress. The time allowed to close its concerns is ample: and if it has been well managed its pressure will be light, and heavy only in case its management has been bad. If, therefore, it shall produce distress, the fault will be its own; and it would furnish a reason against renewing a power which has been so obviously abused. But will there ever be a time when this reason will be less powerful? To acknowledge its force is to admit that the bank ought to be perpetual; and, as a consequence, the present stockholders, and those inheriting their rights as successors, be established a privileged order, clothed both with great political power, and enjoying immense pecuniary advantages, from their connection with the Government."

This whole clause is assumption, without argument or proof to sustain it. The question whether the time to close the concern of the bank is or is not ample, is one which depends upon a variety of circumstances, of which the most important are the amount of its loans, and ability of the individuals and of the country to pay those loans without serious pressure upon business, and consequent individual and public distress; but the Message avers that if the management of the bank has been good, the pressure, on the withdrawal of its loans, will be light, and heavy only in case its management has been bad. It would seem, therefore, according to the ideas conveyed in the Message, that the bank ought to have made no loans except to individuals who were full-handed and always ready to pay; and that they should not have been liberal of their loans in any portion of the country where money was scarce, and the business and the enterprise of the people dependent on their capital to put it in motion. In other words, it were, according to the Message, good management to loan to the rich who are full of capital, and can always pay, and to refuse to the poorer and more enterprising sections and citizens of our country, who borrow to create capital from the proceeds of their industry, aided by their loans. In this I differ from the Message to the whole extent. This bank was little needed in that portion of our country where capital has been accumulating for ages, and therefore abounds. It was not wanted in Boston—they could do well enough without it in New York, Philadelphia, and Baltimore—but in the West, the younger sisters of our confederacy, Ohio, Kentucky, Indiana, Illinois, and Missouri, where the whole wealth

of the people has sprung from small savings of the industry and enterprise of the present generation, who themselves entered and subjugated the wilderness, which they have covered with fruitful fields and flourishing villages. In these sections of our country, capital—accumulated capital—does not, and, in the very nature of things, cannot exist; and there, of all places else, is there need of capital to sustain the enterprise and aid the industry of the people.

I have already said that in that section of the Union we are without capital. The Bank of the United States, in pursuing its own interest, has done what motives of public spirit would have prompted. It loaned extensively where it found capital deficient, and the means of employing it abundant—and at this time we have in the valley of the Mississippi thirty millions of its funds invested and employed.

That the employment of that fund has brought with it public improvement and general prosperity, no one who has watched the progress of that section of the Union since the first establishment of the branches of this bank within its limits, can for a moment doubt. How steady and how rapid has been our advance, by the aid of this institution, and other concurring causes, from a state of financial and commercial depression, to one of almost unrivalled prosperity!

But, sir, the scene is now to be changed. If the days of this institution be numbered, every principle of self-protection must constrain it at once to prepare for its final termination. The capital of the stockholders, now invested in this bank, must be withdrawn, in order to seek another investment. Those who have its direction, must, therefore, as a matter of duty to their employers, call in their loans and issues, and prepare for its final withdrawal; and I now ask the attention of the Senate to its operation upon my own section of the Union, not with the hope of changing the opinion, or the course of any portion of that minority who voted originally against the bill, and without whose aid our struggle here is fruitless and unavailing; but I speak that my own may be heard beyond these walls by those whom I represent, that they at least may know that I have not been blind to their interest, or unmindful of my duty towards them.

Sir, of the whole thirty millions loaned in the Western States, but one hundred and forty thousand two hundred dollars are owned as stock in that section of the country. All besides of the whole thirty millions must be, within the coming five years, collected and withdrawn from our circulation. But this is not all: there are owned by foreigners something more than eight millions of the stock of the bank. This sum can find, at this time, no other safe investment in our country. That eight millions must be shipped from our seaboard in gold and silver to the capitalists of Europe.

The withdrawal of that sum from the actual specie capital of our country must of itself cause a sensible pressure in the money market; and that pressure, though striking first on the commercial cities, will be felt throughout the Union, especially in the West, which has always maintained with them a constant and close connection; for, sir, scarcely less quickly do the nerves in the animal frame carry sensation between the extremities and the brain, their common centre, than do the rapid lines of commercial intercourse bear the vibrations of money capital, the relation of demand and supply in the commercial world, from our cities, the centre and emporium of that commerce, to the extreme points of our Union. What man of business who has heard of a sudden claim on one of the commercial cities for a few millions of dollars, but has felt at once the extended pressure upon the remote point which he may have occupied? The transportation of this eight millions of specie, if it stood alone, and with the Bank of the United States to aid us, and break the force of the shock, we should feel, and sensibly feel, even to the farthest West.

The Bank of the United States must, then, withdraw its issues and call in its loans, or as much of them as the amount of money in the country will meet. As this medium disappears from among us, the property of every individual—land, houses, stock—the fruits of the earth—the labor of the farmer, the mechanic, and all the products of their labor, must go down, almost to nothing: still, for years, this debt will press heavier and heavier upon our resources. The man who owes the bank will have his debtors, and must press them in order to cast off the burden from himself. Suits, sales of property under the hammer by the officers of the law, come next in the progress of events—and this, sir, not upon the rich and purse-proud, the monopolist and the arjstocratic son of fortune, to whom the President seems to think the bank is alone of importance, but upon the industrious farmer and mechanic, the bone and sinew of our republic, they who support the Government by their honest industry, and whom the rulers of our land ought, in all things, most carefully to guard. In this state of things the industrious poor would be in effect delivered over, bound hand and foot, to the voracious moneyed speculator. He who could come into the country in the midst of a scene like that which we once witnessed, and which is again at hand, armed with a few thousands of ready cash, might, if he had the hardness of heart to do it, buy himself a dukedom out of the farms of our industrious but ruined yeomanry.

Mr. CLAYTON rose, he said, for the purpose of adding to what had been suggested by gentlemen who had gone before him in the debate, his own views of the true issue tendered by the President to the country in the Message under consideration. It was not merely the question whether the present Bank of the United States

should be rechartered, but whether any bank whatever should be established by the Government after the expiration of the act of Congress incorporating that institution.

This Message contains, said Mr. C., two sentences which I will venture to predict will be artfully quoted in the coming contest, to prove the very reverse of the position which I have laid down, and to delude the people who are to decide this question as to the real opinions of the President in reference to the whole subject. We shall be told, sir, that, in the very first page of this document, the President has admitted that "a Bank of the United States is, in many respects, convenient for the Government, and useful to the people;" and that, on the twelfth page of the same paper, he has said "that a Bank of the United States, competent to all the duties which may be required by the Government, might be so organized as not to infringe on our own delegated powers, or the reserved rights of the States, I do not entertain a doubt." Without stopping to inquire for what purpose these declarations have been introduced into the Message, we cannot but anticipate the uses to be made of them hereafter; and as it is of importance to the whole country that no false coloring should be given to the Executive opinion, by the use of these isolated passages, I will consume so much of your time as may be necessary to dispel the illusion they are calculated to create.

I repeat, then, sir, that, from the opinions of the President, as fully developed in this paper, it is not to be expected that during his Administration, and while these sentiments remained unchanged, any bank whatever can be established by this Government; and to show it, I will content myself by referring to a few paragraphs in that part of his argument which labors to prove the present bank charter unconstitutional:

"On two subjects only does the constitution recognize in Congress the power to grant exclusive privileges or monopolies. It declares that 'Congress shall have power to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries.' Out of this express delegation of power have grown our laws of patents and copyrights. As the constitution expressly delegates to Congress the power to grant exclusive privileges, in these cases, as the means of executing the substantive power 'to promote the progress of science and useful arts,' it is consistent with the fair rules of construction to conclude that such a power was not intended to be granted as a means of accomplishing any other end. On every other subject which comes within the scope of congressional power, there is an ever-living discretion in the use of proper means, which cannot be restricted or abolished without an amendment of the constitution. Every act of Congress, therefore, which attempts, by grants of monopolies, or sale of exclusive privileges for a limited time, or a time without limit, to restrict or extinguish its own discretion in the choice of means to execute its delegated powers, is equivalent to a legislative amendment of the constitution, and palpably unconstitutional."

Here, and elsewhere throughout the document, the grant of a charter to individuals for banking purposes is denounced as the "grant of a monopoly"—the "sale of exclusive privileges"—the "grant of exclusive privileges or monopolies," "equivalent to a legislative amendment of the constitution, and palpably unconstitutional." If a grant to one incorporated company be a monopoly, we must also consider as monopolies several grants to several such companies. Twenty such grants to twenty such companies are as much sales of exclusive privileges to them, as that which is the peculiar and present subject of the President's animadversions. This objection, fatal to all charters by which private individuals are permitted to hold stock, could be obviated only by a grant of charters for banking purposes to all who ask them—a mode of avoiding the constitutional objection, not to be supposed to have entered into the imagination of him who informed us, in his Message of 1829, that even the present bank had entirely failed in the great object of establishing a sound and uniform currency.

What manner of a national bank is that, sir, in which the people of our country are to be prohibited from holding stock? Another important feature of this project is disclosed on the ninth page of the Message:

"The Government is the only 'proper' judge where its agents should reside and keep their offices, because it best knows where their presence will be 'necessary.' It cannot, therefore, be 'necessary' or 'proper' (that is, it is unconstitutional) to authorize the bank to locate branches where it pleases to perform the public service, without consulting the Government, and contrary to its will."

The inference is then distinctly drawn, that a bank, which can locate branches where it pleases, must be a bank "for other than public purposes"—or, in other words, that the power to establish two branches in any State, "without the injunction or request of the Government," is unconstitutional, because it is not necessary to the due execution of the powers delegated to Congress.

I put it solemnly, now, to honorable men of all parties and opinions, to be answered in candor at this crisis in our affairs, what is this scheme, this only constitutional scheme of a national bank? What were the features of that bank, than which there is no other which can obtain the Executive sanction? It is, sir, that plan of a Government bank which has been denounced by every other intelligent man, of every political party, in every part of the country. No one—not the most zealous political partisan—not even a single ribald editor, seeking office, has ever yet dared to stand up in the face of the country, and proclaim the opinion that such a bank could be tolerated in a free country. Both in and out of these Halls such a scheme has been ridiculed by men of all

parties. The Committee of Ways and Means of the other House, composed of his strongest political friends, in the first year of his Administration, in their report on this part of the President's Message of 1829, speaking of the "corrupting influence which such an institution would exercise over the elections of the country," declared it to be "irresistible," and added, "No matter by what means an Administration might get into power, with such a tremendous engine in their hands, it would be almost impossible to displace them without some miraculous interposition of Providence."

I ask, what is to be done for the country? All thinking men must now admit that, as the present bank must close its concerns in less than four years, the pecuniary distress, the commercial embarrassments, consequent upon its destruction, must exceed any thing which has ever been known in our history, unless some other bank can be established to relieve us. Eight and a half millions of the bank capital, belonging to foreigners, must be drawn from us to Europe. Seven millions of the capital must be paid to the Government, not to be loaned again, but to remain, as the President proposes, deposited in a branch of the Treasury, to check the issues of the local banks. The immense available resources of the present institution, amounting, as appears by the report in the other House, to $82,057,483, are to be used for banking no longer, and nearly fifteen millions of dollars in notes discounted, on personal and other security, must be paid to the bank. The State banks must pay over all their debts to the expiring institution, and curtail their discounts to do so, or resort, for the relief of their debtors, to the old plan of emitting more paper, to be bought up by speculators at a heavy discount. The prediction of Mr. Lowndes in 1819 must be fulfilled, "That the destruction of the United States Bank would be followed by the establishment of paper money, he firmly believed; he might also say he knew. It was an extremity, he said, from which the House would recoil." The farmer must again sell his grain to the country merchant for State bank paper at a discount of from ten to twenty, or even thirty per cent. in the nearest commercial city. The merchant must receive from the farmer the same paper in exchange for all the merchandise he consumes. The merchant with his money must purchase other merchandise in the cities, and must often sell it, at an advance on that price, to the farmer, of twenty per cent. to save himself from loss.

The depreciation of the paper thus operates as a tax on the farmer, the mechanic, and all the consumers of merchandise, to its whole amount. The loss of confidence among men, the total derangement of that admirable system of exchanges which is now acknowledged to be better than exists in any other country on the globe, overtrading and speculation on false capital in every part of the country, that rapid fluctuation in the standard of value for money, which, like the unseen pestilence, withers all the efforts of industry, while the sufferer is in utter ignorance of the cause of his destruction; bankruptcies and ruin, at the anticipation of which the heart sickens, must follow in the long train of evils which are assuredly before us.

THURSDAY, July 12.

The Bank Veto.

The Senate having resumed the consideration of the veto Message of the President,

Mr. CLAY rose. He said he had some observations to submit on this question, which he would not trespass on the Senate in offering, but that it had some command of leisure, in consequence of the conference which had been agreed upon in respect to the tariff.

A bill to recharter the bank had recently passed Congress, after much deliberation. In this body, we know that there are members enough, who entertain no constitutional scruples, to make, with the vote by which the bill was passed, a majority of two-thirds. In the House of Representatives, also, it is believed there is a like majority in favor of the bill. Notwithstanding this state of things, the President has rejected the bill, and transmitted to the Senate an elaborate Message, communicating at large his objections. The constitution requires that we should reconsider the bill, and that the question of its passage, the President's objections notwithstanding, shall be taken by yeas and nays. Respect to him, as well as the injunctions of the constitution, require that we should deliberately examine his reasons, and reconsider the question.

The veto is an extraordinary power, which, though tolerated by the constitution, was not expected by the convention to be used in ordinary cases. It was designed for instances of precipitate legislation, in unguarded moments. Thus restricted, and it had been thus restricted by all former Presidents, it might not be mischievous. During Mr. Madison's Administration of eight years, there had occurred but two or three cases of its exercise. During the last Administration, I do not now recollect that it was once. In a period little upwards of three years, the present Chief Magistrate has employed the veto four times. We now hear quite frequently, in the progress of measures through Congress, the statement that the President will veto them, urged as an objection to their passage.

The veto is hardly reconcilable with the genius of representative Government. It is totally irreconcilable with it, if it is to be frequently employed, in respect to the expediency of measures, as well as their constitutionality. It is a feature of our Government borrowed from a prerogative of the British King. And it is remarkable that in England it has grown obsolete, not having been used for upwards of a

century. At the commencement of the French revolution, in discussing the principles of their constitution, in the National Convention, the veto held a conspicuous figure. The gay, laughing population of Paris bestowed on the King the appellation of Monsieur Veto, and the Queen that of Madame Veto. The convention finally decreed that if a measure rejected by the King should obtain the sanction of the two concurring Legislatures, it should be a law, notwithstanding the veto. In the constitution of Kentucky, and perhaps in some of the State constitutions, it is provided that if, after the rejection of a bill by the Governor, it shall be passed by a majority of all the members elected to both Houses, it shall become a law, notwithstanding the Governor's objections. As a coordinate branch of the Government, the Chief Magistrate has great weight. If, after a respectful consideration of his objections urged against a bill, a majority of all the members elected to the Legislature shall still pass it, notwithstanding his official influence and the force of his reasons, ought it not to become a law? Ought the opinion of one man to overrule that of a legislative body twice deliberately expressed?

It cannot be imagined that the convention contemplated the application of the veto to a question which has been so long, so often, and so thoroughly scrutinized, as that of the Bank of the United States, by every department of the Government, in almost every stage of its existence, and by the people, and by the State Legislatures. Of all the controverted questions which have sprung up under our Government, not one has been so fully investigated as that of its power to establish a Bank of the United States. More than seventeen years ago, in January, 1815, Mr. Madison then said in a Message to the Senate of the United States: "Waiving the question of the constitutional authority of the Legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated recognitions, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications, in different modes, of a concurrence of the general will of the nation." Mr. Madison, himself, opposed to the first Bank of the United States, yielded his own convictions to those of the nation, and all the departments of the Government thus often expressed. Subsequent to this true, but strong statement of the case, the present Bank of the United States was established, and numerous other acts of all the departments of the Government, manifesting their settled sense of the power, have been added to those which existed prior to the date of Mr. Madison's Message.

No question has been more generally discussed, within the last two years, by the people at large, and in State Legislatures, than that of the bank; and this consideration of it has been prompted by the President himself. In his first Message to Congress, (in December, 1829,) he brought the subject to the view of that body and the nation, and expressly declared that it could not, for the interests of all concerned, be "too soon" settled. In each of his subsequent annual Messages, in 1829 and in 1831, he again invited the attention of Congress to the subject. Thus, after an interval of two years, and after the intervention of the election of a new Congress, the President deliberately renews his recommendation to consider the question of the renewal of the charter of the Bank of the United States. And yet his friends now declare the agitation of the question to be premature! It was not premature in 1829 to present the question, but it is premature in 1832 to consider and decide it!

After the President had directed public attention to this question, it became not only a topic of popular conversation, but was discussed in the press, and employed as a theme in popular elections. I was myself interrogated on more occasions than one, to make a public expression of my sentiments; and a friend of mine, in Kentucky, a candidate for the State Legislature, told me, near two years ago, that he was surprised, in an obscure part of his country, (the hills of Benson,) where there was but little occasion for banks, to find himself questioned on the stump as to the recharter of the Bank of the United States. It seemed as if a sort of general order had gone out from head-quarters to the partisans of the Administration everywhere, to agitate and make the most of the question. They have done so: and their condition now reminds me of the fable invented by Dr. Franklin of the Eagle and the Cat, to demonstrate that Æsop had not exhausted invention, in the construction of his memorable fables. The eagle, you know, Mr. President, pounced, from his lofty flight in the air, upon a cat, taking it to be a pig. Having borne off his prize, he quickly felt most painfully the paws of the cat thrust deeply into his sides and body. Whilst flying, he held a parley with the supposed pig, and proposed to let go his hold, if the other would let him alone. No, says puss, you brought me from yonder earth below, and I will hold fast to you until you carry me back; a condition to which the eagle readily assented.

The friends of the President, who have been for near three years agitating this question, now turn round upon their opponents who have supposed the President quite serious and in earnest, in presenting it for public consideration, and charge them with prematurely agitating it. And that for electioneering purposes! The other side understands perfectly the policy of preferring an unjust charge in order to avoid a well-founded accusation.

If there be an electioneering motive in the matter, who have been actuated by it? Those who have taken the President at his word, and deliberated on a measure which he has repeatedly recommended to their consideration; or those who have resorted to all sorts of

means to elude the question? By alternately coaxing and threatening the bank; by an extraordinary investigation into the administration of the bank; and by every species of postponement and procrastination, during the progress of the bill.

Notwithstanding all these dilatory expedients, a majority of Congress, prompted by the will and the best interests of the nation, passed the bill. And I shall now proceed, with great respect and deference, to examine some of the objections to its becoming a law, contained in the President's Message, avoiding, as much as I can, a repetition of what gentlemen have said who preceded me.

The President thinks that the precedents, drawn from the proceedings of Congress, as to the constitutional power to establish a bank, are neutralized, by there being two for, and two against the authority. He supposes that one Congress in 1811, and another in 1815, decided against the power. Let us examine both of these cases. The House of Representatives, in 1811, passed the bill to recharter the bank, and consequently affirmed the power. The Senate during the same year were divided, 17 and 17, and the Vice President gave the casting vote. Of the seventeen who voted against the bank, we know, from the declaration of the Senator from Maryland, (Mr. SMITH,) now present, that he entertained no doubt whatever of the constitutional power of Congress to establish a bank, and that he voted on totally distinct ground. Taking away his vote, and adding it to the 17 who voted for the bank, the number would have stood 18 for, and 16 against the power. But we know, further, that Mr. Gaillard, Mr. Anderson, and Mr. Robinson, made a part of that 16; and that in 1815 all three of them voted for the bank. Take those three votes from the 16, and add them to the 18, and the vote of 1811, as to the question of the constitutional power, would have been 21 and 13. And of these thirteen, there might have been others still who were not governed in their votes by any doubts of the power.

In regard to the Congress of 1815, so far from their having entertained any scruples in respect to the power to establish a bank, they actually passed a bank bill, and thereby affirmed the power. It is true that, by the casting vote of the Speaker of the House of Representatives, (Mr. Cheves,) they rejected another bank bill, not on grounds of want of power, but upon considerations of expediency in the particular structure of that bank.

Both the adverse precedents, therefore, relied upon in the Message, operate directly against the argument which they were brought forward to maintain. Congress, by various other acts, in relation to the Bank of the United States, has again and again sanctioned the power. And I believe it may be truly affirmed that, from the commencement of the Government to this day, there has not been a Congress opposed to the Bank of the United States upon the distinct ground of a want of power to establish it.

And here, Mr. President, I must request the indulgence of the Senate, whilst I express a few words in relation to myself.

I voted in 1811, against the old Bank of the United States, and I delivered on the occasion a speech, in which, among other reasons, I assigned that of its being unconstitutional. My speech has been read to the Senate during the progress of this bill, but the reading of it excited no other regret than that it was read in such a wretched, bungling, mangling manner. During a long public life, (I mention the fact not as claiming any merit for it,) the only great question in which I have ever changed my opinion, is that of the Bank of the United States. If the researches of the Senator had carried him a little further, he would, by turning over a few more leaves of the same book from which he read my speech, have found that which I made in 1816, in support of the present bank. By the reasons assigned in it for the change of my opinion, I am ready to abide in the judgment of the present generation and of posterity. In 1816, being Speaker of the House of Representatives, it was perfectly in my power to have said nothing and done nothing, and thus have concealed the change of opinion which my mind had undergone. But I did not choose to remain silent and escape responsibility. I chose publicly to avow my actual conversion. The war, and the fatal experience of its disastrous events, had changed me. Mr. Madison, Governor Pleasants, and almost all the public men around me, my political friends, had changed their opinions from the same causes.

The power to establish a bank is deduced from that clause of the constitution which confers on Congress all powers necessary and proper to carry into effect the enumerated powers. In 1811, I believed a Bank of the United States not necessary, and that a safe reliance might be placed on the local banks, in the administration of the fiscal affairs of the Government. The war taught us many lessons; and, among others, demonstrated the necessity of a Bank of the United States to the successful operations of the Government. I will not trouble the Senate with a perusal of my speech in 1816, but ask its permission to read a few extracts:

"But how stood the case in 1816, when he was called upon again to examine the powers of the General Government to incorporate a national bank? A total change of circumstances was presented—events of the utmost magnitude had intervened.

"A general suspension of specie payments had taken place, and this had led to a train of consequences of the most alarming nature. He beheld, dispersed over the immense extent of the United States, about three hundred banking institutions, enjoying, in different degrees, the confidence of the public, shaken as to them all, under no direct control of the General Government, and subject to no actual responsibility to the State authorities. These

institutions were emitting the actual currency of the United States—a currency consisting of paper, on which they neither paid interest nor principal, whilst it was exchanged for the paper of the community, on which both were paid. We saw these institutions, in fact, exercising what had been considered, at all times, and in all countries, one of the highest attributes of sovereignty—the regulation of the current medium of the country. They were no longer competent to assist the Treasury in either of the great operations of collection, deposit, or distribution of the public revenues. In fact, the paper which they emitted, and which the Treasury, from the force of events, found itself constrained to receive, was constantly obstructing the operations of that department; for it would accumulate where it was not wanted, and could not be used where it was wanted, for the purposes of Government, without a ruinous and arbitrary brokerage. Every man who paid to or received from the Government, paid or received as much less than he ought to have done, as was the difference between the medium in which the payment was effected and specie. Taxes were no longer uniform. In New England, where specie payments had not been suspended, the people were called upon to pay larger contributions than where they were suspended. In Kentucky as much more was paid by the people in their taxes, than was paid, for example, in the State of Ohio, as Kentucky paper was worth more than Ohio paper. * * *

"Considering, then, that the state of the currency was such that no thinking man could contemplate it without the most serious alarm; that it threatened general distress, if it did not ultimately lead to convulsion and subversion of the Government, it appeared to him to be the duty of Congress to apply a remedy, if a remedy could be devised. A national bank, with other auxiliary measures, was proposed as that remedy. Mr. CLAY said he determined to examine the question with as little prejudice as possible arising from his former opinion; he knew that the safest course to him, if he pursued a cold, calculating prudence, was to adhere to that opinion, right or wrong. He was perfectly aware that if he changed, or seemed to change it, he should expose himself to some censure; but, looking at the subject with the light shed upon it by events happening since the commencement of the war, he could no longer doubt. * * * He preferred, to the suggestions of the pride of consistency, the evident interests of the community, and determined to throw himself upon their justice and candor."

The interest which foreigners hold in the existing Bank of the United States is dwelt upon in the Message as a serious objection to the recharter. But this interest is the result of the assignable nature of the stock; and if the objection be well founded, it applies to Government stock, to the stock in local banks, in canal and other companies, created for internal improvements, and every species of money or movables in which foreigners may acquire an interest. The assignable character of the stock is a quality conferred, not for the benefit of foreigners, but for that of our own citizens. And the fact of its being transferred to them is the effect of the balance of trade being against us—an evil, if it be one, which the American system will correct. All Governments wanting capital resort to foreign nations possessing it in superabundance, to obtain it. Sometimes the resort is even made by one to another belligerent nation. During our revolutionary war we obtained foreign capital (Dutch and French) to aid us. During the late war American stock was sent to Europe to sell; and, if I am not misinformed, to Liverpool. The question does not depend upon the place whence the capital is obtained, but the advantageous use of it. The confidence of foreigners in our stocks is a proof of the solidity of our credit. Foreigners have no voice in the administration of this bank; and if they buy its stock, they are obliged to submit to citizens of the United States to manage it. The Senator from Tennessee (Mr. WHITE) asks what would have been the condition of this country, if, during the late war, this bank had existed, with such an interest in it as foreigners now hold? I will tell him. We should have avoided many of the disasters of that war; perhaps those of Detroit, and at this place. The Government would have possessed ample means for its vigorous prosecution; and the interest of foreigners (British subjects especially) would have operated upon them, not upon us. Will it not be a serious evil to be obliged to remit in specie to foreigners the eight millions which they now have in this bank, instead of retaining that capital within the country to stimulate its industry and enterprise?

The President assigns in his Message a conspicuous place to the alleged injurious operation of the bank on the interests of the Western people. They ought to be much indebted to him for his kindness manifested towards them; although I think they have much reason to deprecate it. The people of all the West owe to this bank about thirty millions, which have been borrowed from it; and the President thinks that the payments for the interest, and other facilities which they derive from the operation of this bank, are so onerous as to produce "a drain of their currency, which no country can bear without inconvenience and occasional distress." His remedy is to compel them to pay the whole of the debt which they have contracted in a period short of four years. Now, Mr. President, if they cannot pay the interest without distress, how are they to pay the principal? If they cannot pay a part, how are they to pay the whole? Whether the payment of the interest be or be not a burden to them, is a question for themselves to decide, respecting which they might be disposed to dispense with the kindness of the President. If, instead of borrowing thirty millions from the bank, they had borrowed a like sum from a Girard, John Jacob Astor, or any other banker, what would they think of one who should come to them and say—"Gentlemen of the West, it will ruin you to pay the interest on that debt, and therefore I will oblige you to pay the whole of the principal in less than four years." Would

they not reply—"We know what we are about; mind your own business; we are satisfied that in ours we can make not only the interest on what we loan, but a fair profit beside."

A great mistake exists about the Western operation of the bank. It is not the bank, but the business, the commerce of the West, and the operations of Government, that occasion the transfer annually of money from the West to the Atlantic States. What is the actual course of things? The business and commerce of the West are carried on with New Orleans, with the Southern and Southwestern States, and with the Atlantic cities. We transport our dead or inanimate produce to New Orleans, and receive in return checks or drafts of the Bank of the United States, at a premium of a half per cent. We send by our drovers, our live stock to the South and Southwest, and receive similar checks in return. With these drafts or checks our merchants proceed to the Atlantic cities, and purchase domestic or foreign goods for Western consumption. The lead and fur trade with Missouri and Illinois is also carried on principally through the agency of the Bank of the United States. The Government also transfers to places where it is wanted, through that bank, the sums accumulated at the different land offices for purchases of the public lands.

Now, all these varied operations must go on—all these remittances must be made, Bank of the United States or no bank. The bank does not create, but it facilitates them. The bank is a mere vehicle, just as much so as the steamboat is the vehicle which transports our produce to the great mart of New Orleans, and not the grower of that produce. It is to confound cause and effect, to attribute to the bank the transfer of money from the West to the East. Annihilate the bank to-morrow, and similar transfers of capital, the same description of pecuniary operations, must be continued; not so well, it is true, but performed they must be, ill or well, under any state of circumstances.

The true questions are, how are they now performed? how were they conducted prior to the existence of the bank? how would they be after it ceased? I can tell you what was our condition before the bank was established; and, as I reason from past to future experience, under analogous circumstances, I can venture to predict what it will probably be without the bank.

Before the establishment of the Bank of the United States, the exchange business of the West was carried on by a premium, which was generally paid on all remittances to the East of two and a half per cent. The aggregate amount of all remittances, throughout the whole circle of the year, was very great; and, instead of the sum then paid, we now pay half per cent. or nothing, if notes of the Bank of the United States be used. Prior to the bank we were without the capital of the thirty millions which that institution now supplies, stimulating our industry and invigorating our enterprise. In Kentucky we have no specie paying bank, scarcely any currency other than that of paper of the Bank of the United States and its branches.

How is the West to pay this enormous debt of thirty millions of dollars? It is impossible. It cannot be done. General distress, certain, wide-spread, inevitable ruin, must be the consequences of an attempt to enforce the payment. Depression in the value of all property, sheriffs' sales and sacrifices—bankruptcy, must necessarily ensue; and, with them, relief laws, paper money, a prostration of the courts of justice, evils from which we have just emerged, must again, with all their train of afflictions, revisit our country. But it is argued by the gentleman from Tennessee, (Mr. WHITE,) that similar predictions were made, without being realized, from the downfall of the old Bank of the United States. It is, however, to be recollected that the old bank did not possess one-third of the capital of the present; that it had but one office west of the mountains, whilst the present has nine; and that it had little or no debt due to it in that quarter, whilst the present bank has thirty millions. The war, too, which shortly followed the downfall of the old bank, and the suspension of specie payments which soon followed the war, prevented the injury apprehended from the discontinuance of the old bank.

The same gentleman further argues that the day of payment must come; and he asks when, better than now? Is it to be indefinitely postponed; is the charter of the present bank to be perpetual? Why, Mr. President, all things—governments, republics, empires, laws, human life—doubtless are to have an end; but shall we therefore accelerate their termination? The West is now young, wants capital, and its vast resources, needing nourishment, are daily developing. By and by, it will accumulate wealth, from its industry and enterprise, and possess its surplus capital. The charter is not made perpetual, because it is wrong to bind posterity perpetually. At the end of the term limited for its renewal, posterity will have the power of determining for itself whether the bank shall then be wound up, or prolonged another term. And that question may be decided, as it now ought to be, by a consideration of the interests of all parts of the Union, the West among the rest. Sufficient for the day is the evil thereof.

The President tells us that, if the Executive had been called upon to furnish the project of a bank, the duty would have been cheerfully performed; and he states that a bank, competent to all the duties which may be required by the Government, might be organized as not to infringe on our own delegated powers, or the reserved rights of the States. The President is a co-ordinate branch of the legislative department. As such, bills which have passed both Houses of Congress, are presented to him

for his approval or rejection. The idea of going to the President for the project of a law, is totally new in the practice, and utterly contrary to the theory of the Government. What should we think of the Senate calling upon the House, or the House upon the Senate, for the project of a law?

In France, the King possessed the initiative of all laws, and none could pass without its having been previously presented to one of the Chambers by the Crown, through the Ministers. Does the President wish to introduce the initiative here? Are the powers of recommendation, and that of veto, not sufficient? Must all legislation, in its commencement and in its termination, concentrate in the President? When we shall have reached that state of things, the election and annual sessions of Congress will be a useless charge upon the people, and the whole business of Government may be economically conducted by ukases and decrees.

Congress does sometimes receive the suggestions and opinions of the heads of departments, as to new laws. And, at the commencement of this session, in his annual report, the Secretary of the Treasury stated his reasons at large, not merely in favor of a bank, but in support of the existing bank. Who could have believed that that responsible officer was communicating to Congress opinions directly adverse to those entertained by the President himself? When before has it happened that the head of a department recommended the passage of a law, which, being accordingly passed and presented to the President, is subjected to his veto? What sort of a bank it is, with a project of which the President would have deigned to furnish Congress, if they had applied to him, he has not stated. In the absence of such statement, we can only conjecture that it is his famous Treasury Bank, formerly recommended by him, from which the people have recoiled with the instinctive horror excited by the approach of the cholera.

The Message states that "an investigation unwillingly conceded, and so restricted in time as necessarily to make it incomplete and unsatisfactory, discloses enough to excite suspicion and alarm." As there is no prospect of the passage of this bill, the President's objections notwithstanding, by a constitutional majority of two-thirds, it can never reach the House of Representatives. The members of that House, and especially its distinguished chairman of the Committee of Ways and Means, who reported the bill, are therefore cut off from all opportunity of defending themselves. Under these circumstances, allow me to ask how the President has ascertained that the investigation was unwillingly conceded? I have understood directly the contrary; and that the chairman already referred to, as well as other members in favor of the renewal of the charter, promptly consented to and voted for the investigation. And we all know that those in support of the renewal could have prevented the investigation, and that they did not. But suspicion and alarm have been excited. Suspicion and alarm! Against whom is this suspicion? The House, or the bank, or both?

Mr. President, I protest against the right of any Chief Magistrate to come into either House of Congress, and scrutinize the motives of its members; to examine whether a measure has been passed with promptitude or repugnance; and to pronounce upon the willingness or unwillingness with which it has been adopted or rejected. It is an interference in concerns which partake of a domestic nature. The official and constitutional relations between the President and the two Houses of Congress subsist with them as organized bodies. His action is confined to their consummated proceedings, and does not extend to measures in their incipient stages, during their progress through the Houses, nor to the motives by which they are actuated.

There are some parts of this Message that ought to excite deep alarm; and that especially in which the President announces that each public officer may interpret the constitution as he pleases. His language is: "Each public officer, who takes an oath to support the constitution, swears that he will support it as he understands it, and not as it is understood by others." * * * "The opinion of the judges has no more authority over Congress than the opinion of Congress has over the judges; and, on that point, the President is independent of both." Now, Mr. President, I conceive, with great deference, that the President has mistaken the purport of the oath to support the Constitution of the United States. No one swears to support it as he understands it, but to support it simply as it is in truth. All men are bound to obey the laws, of which the constitution is the supreme; but must they obey them as they are, or as they understand them? If the obligation of obedience is limited and controlled by the measure of information; in other words, if the party is bound to obey the constitution only as he understands it, what would be the consequence? The judge of an inferior court would disobey the mandate of a superior tribunal, because it was not in conformity to the constitution, as he understands it; a custom-house officer would disobey a circular from the Treasury Department, because contrary to the constitution, as he understands it; an American Minister would disregard an instruction from the President, communicated through the Department of State, because not agreeable to the constitution, as he understands it; and a subordinate officer in the army or navy would violate the orders of his superior, because they were not in accordance with the constitution, as he understands it. We should have nothing settled, nothing stable, nothing fixed. There would be general disorder and confusion throughout every branch of administration, from the highest to the lowest officers—universal nullification. For what is

the doctrine of the President but that of South Carolina applied throughout the Union? The President independent both of Congress and the Supreme Court! Only bound to execute the laws of the one and the decisions of the other as far as they conform to the Constitution of the United States, as he understands it! Then it should be the duty of every President, on his installation into office, to carefully examine all the acts in the statute book, approved by his predecessors, and mark out those which he was resolved not to execute, and to which he meant to apply this new species of veto, because they were repugnant to the constitution, as he understands it. And, after the expiration of every term of the Supreme Court, he should send for the record of its decisions, and discriminate between those which he would, and those which he would not, execute, because they were or were not agreeable to the constitution, as he understands it.

There is another constitutional doctrine contained in the Message, which is entirely new to me. It asserts that "the Government of the United States have no constitutional power to purchase lands within the States," except "for the erection of forts, magazines, arsenals, dock yards, and other needful buildings;" and even for these objects only "by the consent of the Legislature of the State in which the same shall be." Now, sir, I had supposed that the right of Congress to purchase lands in any State was incontestable: and, in point of fact, it probably, at this moment, owns lands in every State of the Union, purchased for taxes, or as a judgment or mortgage creditor And there are various acts of Congress which regulate the purchase and transfer of such lands. The advisers of the President have confounded the faculty of purchasing lands with the exercise of exclusive jurisdiction, which is restricted by the constitution to the forts and other buildings described.

The Message presents some striking instances of discrepancy. 1st. It contests the right to establish one bank, and objects to the bill that it limits and restrains the power of Congress to establish several. 2d. It urges that the bill does not recognize the power of State taxation generally; and complains that facilities are afforded to the exercise of that power, in respect to the stock held by individuals. 3d. It objects that any bonus is taken, and insists that not enough is demanded. And, 4th. It complains that foreigners have too much influence; and that stock transferred loses the privilege of representation in the elections of the bank, which, if it were retained, would give them more.

Mr. President, we are about to close one of the longest and most arduous sessions of Congress under the present constitution; and, when we return among our constituents, what account of the operations of their Government shall we be bound to communicate? We shall be compelled to say that the Supreme Court is paralyzed, and the missionaries retained in prison in contempt of its authority, and in defiance of numerous treaties and laws of the United States; that the Executive, through the Secretary of the Treasury, sent to Congress a tariff bill which would have destroyed numerous branches of our domestic industry, and led to the final destruction of all; that the veto has been applied to the Bank of the United States, our only reliance for a sound and uniform currency; that the Senate has been violently attacked for the exercise of a clear constitutional power; that the House of Representatives has been unnecessarily assailed; and that the President has promulgated a rule of action for those who have taken the oath to support the Constitution of the United States, that must, if there be practical conformity to it, introduce general nullification, and end in the absolute subversion of the Government.

MONDAY, July 16, 6 A. M.

A message was received from the House, communicating that a committee had been appointed on the part of the House to join such committee as might be appointed by the Senate, to wait on the President, and inform him that the two Houses were now ready to adjourn; and Mr. TYLER and Mr. KING were appointed such committee on the part of the Senate.

Mr. TYLER, from the committee appointed to wait on the President, reported that they had performed that duty, and had received for answer that the President had no further communication to make.

On motion of Mr. BIBB, a message was sent to the House of Representatives, to inform the House that the Senate was ready to adjourn.

A message was received from the House, stating that the House, having closed its business, was now ready to adjourn.

The Senate then adjourned to the first Monday in December next.

TWENTY-SECOND CONGRESS.—FIRST SESSION.

PROCEEDINGS AND DEBATES

IN

THE HOUSE OF REPRESENTATIVES.

MONDAY, December 5, 1831.

This being the day appointed by the constitution for the meeting of Congress, at 12 o'clock the Clerk called the House to order, and having called the roll of the members by States, to ascertain if a quorum was present, two hundred and two members answered to their names. A quorum being present,

The House proceeded to the election of a Speaker, and, on counting the ballots, the following result was announced, viz: The whole

*LIST OF MEMBERS OF THE HOUSE OF REPRESENTATIVES.

Maine.—John Anderson, James Bates, George Evans, Cornelius Holland, Leonard Jarvis, Edward Kavanagh, Rufus McIntire.

New Hampshire.—John Brodhead, Thomas Chandler, Joseph Hammons, Henry Hubbard, Joseph M. Harper, John W. Weeks.

Massachusetts.—John Quincy Adams, Nathan Appleton, Isaac C. Bates, George N. Briggs, Rufus Choate, Henry A. S. Dearborn, John Davis, Edward Everett, George Grennell, jun., James L. Hodges, Joseph G. Kendall, John Reed, (one vacancy.)

Rhode Island.—Tristam Burges, Dutee J. Pearce.

Connecticut.—Noyes Barber, William W. Ellsworth, Jabez W. Huntington, Ralph I. Ingersoll, William L. Storrs, Ebenezer Young.

Vermont.—Heman Allen, William Cahoon, Horace Everett, Jonathan Hunt, William Slade.

New York.—William G. Angel, Gideon H. Barstow, Joseph Bouck, William Babcock, John T. Bergen, John C. Brodhead, Samuel Beardsley, John A. Collier, Bates Cooke, C. C. Cambreleng, John Dickson, Charles Dayan, Ulysses F. Doubleday, William Hogan, Michael Hoffman, Freeborn G. Jewett, John King, Gerrit Y. Lansing, James Lent, Job Pierson, Nathaniel Pitcher, Edmund H. Pendleton, Edward C. Reed, Erastus Root, Nathan Soule, John W. Taylor, Phineas L. Tracy, Gulian C. Verplanck, Frederick Whittlesey, Samuel J. Wilkin, Grattan H. Wheeler, Campbell P. White, Aaron Ward, Daniel Wardwell.

New Jersey.—Lewis Condict, Silas Condict, Richard M. Cooper, Thomas H. Hughes, James Fitz Randolph, Isaac Southard.

Pennsylvania.—Robert Allison, John Banks, George Burd, John C. Bucher, Thomas H. Crawford, Richard Coulter, Harmar Denny, Lewis Dewart, Joshua Evans, James Ford, John Gilmore, William Heister, Henry Horn, Peter Ihrie, Jr., Adam King, Henry King, Joel K. Mann, Robert McCoy, Henry A. Muhlenberg, T. M. McKennan, David Potts, Jr., Andrew Stewart, Samuel A. Smith, Philander Stephens, Joel B. Sutherland, John G. Watmough.

Delaware.—John J. Milligan.

Maryland.—Benjamin C. Howard, Daniel Jenifer, John L. Kerr, ~~George E. Mitchell~~, Benedict I. Semmes, John S. Spence, Francis Thomas, George C. Washington, J. T. H. Worthington.

Virginia.—Mark Alexander, Robert Allen, William S. Archer, William Armstrong, John S. Barbour, Thomas T. Bouldin, Nathaniel H. Claiborne, Robert Craig, Joseph W. Chinn, Richard Coke, Jr., Thomas Davenport, Philip Doddridge, William F. Gordon, Charles C. Johnston, John Y. Mason, Lewis Maxwell, Charles F. Mercer, William McCoy, Thomas Newton, John M. Patton, John J. Roane, Andrew Stevenson.

North Carolina.—Daniel L. Barringer, Laughlin Bethune, John Branch, Samuel P. Carson, Henry W. Conner, Thomas H. Hall, Micajah T. Hawkins, James J. McKay, Abraham Rencher, William B. Shepard, Augustine H. Shepperd, Jesse Speight, Lewis Williams.

South Carolina.—Robert W. Barnwell, James Blair, Warren R. Davis, William Drayton, John M. Felder, J. R. Griffin, Thos. R. Mitchell, George McDuffie, W. T. Nuckolls.

Georgia.—Thomas F. Foster, Henry G. Lamar, Daniel Newman, Wiley Thompson, Richard H. Wilde, James M. Wayne, (one vacancy.)

Kentucky.—John Adair, Chilton Allen, Henry Daniel, Nathan Gaither, Albert G. Hawes, R. M. Johnson, Joseph Lecompte, Chittenden Lyon, Robert P. Letcher, Thomas A. Marshall, Christopher Tompkins, Charles A. Wickliffe.

Tennessee.—Thomas D. Arnold, John Bell, John Blair, William Fitzgerald, William Hall, Jacob C. Isacks, Cave Johnson, James K. Polk, James Standifer.

Ohio.—Joseph H. Crane, Eleutheros Cooke, William

number of votes given in, 195; necessary to a choice, 98.

The honorable ANDREW STEVENSON, of Virginia, having received 98 votes, (the exact number necessary for a choice,) was declared to be duly elected Speaker of the House of Representatives: whereupon, being conducted to the chair by the honorable THOMAS NEWTON, of Virginia, the Speaker addressed the House as follows:

"GENTLEMEN: In accepting, a third time, this exalted station, I cannot adequately express the deep sense I entertain of the honor you have been pleased again to confer upon me, or my warm feelings of gratitude for this distinguished proof of your continued confidence and unchanging kindness.

"It is an honor, too, gentlemen, which has been conferred in a manner and under circumstances peculiarly calculated to gratify and flatter me; and I shall ever cherish it as the most valuable reward for my past services. The office of Speaker of this House has, at no period in our history, been without its embarrassments and trials; and if, in times of profound tranquillity and repose, its duties have justly been regarded by the most eminent of the distinguished individuals who have filled the chair, as arduous and responsible, how greatly must its labors and responsibilities be enhanced in times of high political and party divisions!

"I certainly am not vain enough to suppose that it will be in my power to discharge the duties of this high office in a manner suitable to its dignity and importance, or as I could myself wish; indeed, there is no man, I am very confident, be he who he may, who could at such a time assume its responsibilities, without distrusting greatly his own abilities. I shall not, however, despair. Actuated by an honest and manly zeal, I shall endeavor at least to justify the choice of my friends, and merit the confidence and respect of the House.

"Whoever shall fill this chair to his own honor or the advantage of the nation, must possess not only this confidence of the House, but the esteem and respect of the honorable and high-minded men over whom he presides. Neither station nor power can coerce esteem or respect. They can only be acquired by integrity, impartiality, and independence here. These alone can shed honor or lustre on this station, and make it, both as it regards the House and the nation, what it should be.

"I unfeignedly assure you, gentlemen, that I shall need and expect your cordial and kind cooperation in preserving order and dignity in our deliberations, and sustaining the authority of the Chair; and I earnestly hope so to discharge its duties as to ensure to its decisions not merely a reluctant support, but a steady and cheerful acquiescence in their justice and propriety.

"I tender you, gentlemen, my cordial co-operation in the discharge of your high duties, and ardently pray that we may, by our conduct and deliberations, render this House worthy of the high name and character of our beloved country."

The oath to support the Constitution of the United States, as prescribed by the act, entitled "An act to regulate the time and manner of administering certain oaths," was then administered to the Speaker, by Mr. NEWTON, one of the Representatives from the State of Virginia, and the same oath (or affirmation) was thereupon administered by the Speaker to all the other members present.

On motion of Mr. SPEIGHT, it was

Resolved, unanimously, That M. St. C. CLARKE, Clerk to the late House of Representatives, be appointed Clerk to this House.

On motion of Mr. TAYLOR, it was

Resolved, That the rules and orders established by the late House of Representatives be deemed and taken to be the rules and orders of proceeding to be observed in this House, until a revision or alteration shall have taken place.

On motion of Mr. POLK, it was

Ordered, That a message be sent to the Senate to inform that body that a quorum of this House has assembled; that Andrew Stevenson has been elected Speaker thereof; that this House is now ready to proceed to business, and that the Clerk do go with said message.

On motion of Mr. WARD, it was

Resolved, That a committee be appointed on the part of this House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and inform him that Congress is assembled, and ready to receive any communication he may be pleased to make.

Mr. WARD, of New York, and Mr. BELL, of Tennessee, were appointed the committee on the part of this House.

On motion of Mr. JOHNSON, of Kentucky, it was

Resolved, That the Clerk cause the members of this House to be furnished, during the present session, with such newspapers as they may direct, the expense whereof, for each member, not to exceed the price of three daily papers.

Adjourned.

TUESDAY, December 6.

On the motion of Mr. TAYLOR, it was

Resolved, That two Chaplains, of different de-

Creighton, Jr., Thomas Corwin, James Findlay, William W. Irvin, William Kennon, Humphrey H. Leavitt, William Russel, William Stanberry, John Thomson, Joseph Vance, Samuel F. Vinton, Elisha Whittlesey.

Louisiana.—H. A. Bullard, Philemon Thomas, Edward D. White.

Indiana.—Ratliff Boon, John Carr, Jonathan McCarty.

Mississippi.—Franklin E. Plummer.

Illinois.—Joseph Duncan.

Alabama.—Clement C. Clay, Dixon H. Lewis, Samuel W. Mardis.

Missouri.—William H. Ashley

DELEGATES.

Michigan.—Austin E. Wing.

Arkansas.—Ambrose H. Sevier.

Florida.—Joseph M. White.

nominations, be elected by Congress, one by each House, to serve during the present session, who shall interchange weekly.

Mr. WARD, from the joint committee appointed yesterday to wait on the President of the United States, and inform him that Congress is assembled, and ready to receive any communication he may be pleased to make, reported that the committee had performed the duties of its appointment, and that the President answered that he would make a communication to the two Houses of Congress to-day at 12 o'clock, M.

Immediately after a communication in writing was received from the President of the United States, by Mr. Donelson, his private Secretary; which was read. [See Senate proceedings.]

On motion of Mr. JOHNSON, of Kentucky, the said Message was committed to the Committee of the whole House on the state of the Union; and ten thousand copies thereof, with the documents accompanying the same, were ordered to be printed for the use of the members of this House.

WEDNESDAY, December 7.

Finances.

The SPEAKER laid before the House the annual report of the Secretary of the Treasury, Louis McLane, Esq., on the state of the finances, which was laid on the table, and,

On motion of Mr. POLK, ten thousand copies thereof were ordered to be printed. The rule requiring a motion to print an extra number of copies of any document, to lie one day for consideration, being dispensed with by unanimous consent of the House.

Officers of the House.

The House then proceeded to the election of its remaining officers.

JOHN O. DUNN was elected Sergeant-at-Arms.

OVERTON CARR was elected Doorkeeper—receiving 140 votes out of 176, on the first ballot.

THURSDAY, December 8.

Assistant Doorkeeper.

JOHN W. HUNTER, of Georgia, having, on the fourth ballot, a majority of the votes, was declared duly elected.

MONDAY, December 12.

Slavery in the District of Columbia.

This being the first day of the session for presenting petitions, a great number were presented. Among others,

Mr. ADAMS, of Massachusetts, (the ex-President of the United States,) presented fifteen petitions, all numerously subscribed, from sundry inhabitants of Pennsylvania, all of the same purport, praying for the abolition of slavery and the slave trade in the District of Columbia, and moved that the first of them should be read; and it was read accordingly.

Mr. A. then observed that it had doubtless been remarked that these petitions came not from Massachusetts, a portion of whose people he had the honor to represent, but from citizens of the State of Pennsylvania. He had received the petitions many months ago, with a request that they should be presented by him, and, although the petitioners were not of his immediate constituents, he had not deemed himself at liberty to decline presenting their petitions, their transmission of which to him manifested a confidence in him for which he was bound to be grateful. From a letter which had accompanied those petitions, he inferred that they came from members of the Society of Friends; a body of men than whom there was no more respectable and worthy class of citizens, none who more strictly made their lives a commentary on their professions; a body of men comprising, in his firm opinion, as much of human virtue, and as little of human infirmity, as any other equal number of men of any denomination upon the face of the globe.

The petitions, Mr. A. continued, asked for two things: the first was the abolition of slavery; the second, the abolition of the slave trade in the District of Columbia. There was a traffic in slaves carried on in the District, of which he did not know but that it might be a proper subject of legislation by Congress, and he, therefore, moved that the petitions he had had the honor of presenting, should be referred to the Committee on the Affairs of the District of Columbia, who would dispose of them as they, upon examination of their purport, should deem proper, and might report on the expediency of granting so much of the prayer of the petitioners as referred to the abolition of the slave trade in the District.

As to the other prayer of the petitions, the abolition by Congress of slavery in the District of Columbia, it had occurred to him that the petitions might have been committed to his charge under an expectation that it would receive his countenance and support. He deemed it, therefore, his duty to declare that it would not. Whatever might be his opinion of slavery in the abstract, or of slavery in the District of Columbia, it was a subject which he hoped would not be discussed in that House; if it should be, he might perhaps assign the reasons why he could give it no countenance or support. At present, he would only say to the House, and to the worthy citizens who had committed their petitions to his charge, that the most salutary medicines, unduly administered, were the most deadly of poisons. He concluded by moving to refer the petitions to the Committee for the District of Columbia.

Appropriations for 1832.

The SPEAKER laid before the House the fol-

lowing communication from the Secretary of the Treasury, which was referred to the Committee of Ways and Means:

TREASURY DEPARTMENT, *December* 8, 1831.

SIR: I have the honor to transmit, for the information of the House of Representatives, an estimate of the appropriations proposed to be made for the service of the year 1832, amounting to $11,551,154 38

Viz.

Civil List, foreign intercourse, and miscellaneous, ...	2,407,065 65
Military service, including fortifications, armories, ordnance, Indian affairs, revolutionary and military pensions, and internal improvements,	5,736,470 02
Naval service, including the marine corps, ...	3,407,618 71

To the estimates are added statements, showing:

1. The appropriations for the service of the year 1832, made by former acts, including public debt, gradual improvement of the navy, arming and equipping the militia, subscription to canal stocks, revolutionary claims, and Indian affairs, amounting to	11,312,945 00
2. The existing appropriations, which will not be required for the service of the year 1831, and which it is proposed to apply in aid of the service of the year 1832, amounting to	501,102 78
3. The existing appropriations, which will be required to complete the service of 1831, and former years, but which will be expended in 1831, amounting to	3,423,525 87

These three last-mentioned amounts, together with as much as may remain unexpended of the sum stated in the report on the finances, presented by this department on the 7th instant, as the estimated expenditure in the fourth quarter of the present year, and with such sums as may be appropriated by Congress for the year 1832, will complete the whole amount subject to the disposition of the Executive Government in that year.

There is also added to the estimates a statement of the several appropriations which will probably be carried to the surplus fund at the close of the present year, either because the objects for which they were made are completed, or because these sums will not be required for, or will no longer be applicable to them, amounting to two hundred and fifteen thousand one hundred and ninety-four dollars and forty-eight cents.

I have the honor to be, with great respect, your obedient servant,

LOUIS McLANE,
Secretary of the Treasury.

To the Hon. the Speaker of the House of Representatives U. S.

MONDAY, December 19.

Slavery: its Abolition in the District of Columbia.

Mr. DODDRIDGE, from the Committee for the District of Columbia, made the following report, which was read and concurred in by the House:

The Committee for the District of Columbia have, according to order, had under their consideration the memorials of sundry citizens of the State of Pennsylvania, to them referred, praying the passage of such a law or laws by Congress, as may be necessary for the abolition of slavery and the slave trade within the said District, and beg leave to report thereon, in part:

Considering that the District of Columbia is composed of cessions of territory made to the United States by the States of Virginia and Maryland, in both of which States slavery exists, and the territories of which surround the District, your committee are of opinion that, until the wisdom of State Governments shall have devised some practicable means of eradicating or diminishing the evil of slavery, of which the memorialists complain, it would be unwise and impolitic, if not unjust, to the adjoining States, for Congress to interfere in a subject of such delicacy and importance as is the relation btween master and slave.

If, under any circumstances, such an interference on the part of Congress would be justified, your committee are satisfied that the present is an inauspicious moment for its consideration.

Impressed with these views, your committee offer for the consideration of the House the following resolution:

Resolved, That the Committee for the District of Columbia be discharged from the further consideration of so much of the prayer of the memorialists, citizens of the State of Pennsylvania, to them referred, asking the passage of such law or laws as may be necessary for the abolition of slavery and the slave trade within said District, as relates to the first of these objects, the abolition of slavery within said District.

THURSDAY, December 22.

Bridge over the Ohio, at Wheeling.

Mr. DODDRIDGE submitted the following:

Resolved, That the Committee on Internal Improvements be directed to inquire into the expediency of providing for the erection of a bridge over the Ohio River, at or near the town of Wheeling, and that they have leave to report by bill or otherwise.

Mr. SPEIGHT, of North Carolina, opposed the adoption of the resolution. He considered it his duty to oppose all similar measures, for it was necessary, in his opinion, to defend correct constitutional principles on all occasions, be they great or small; and though the present was only a motion for inquiry, he would, nevertheless, call for the yeas and nays.

Mr. DODDRIDGE said that a mere motion for inquiry was not an occasion to combat for principle. He remarked that it was not then the

time to go into the merits of the question, but thus much he would say, the bridge proposed would connect the Cumberland road on the Virginia side of the Ohio, with the continuation of that road on the opposite bank. It was a measure which had been before Congress for many years, and certainly was one which it would be highly expedient to sanction. To do so would be to realize the grand idea of Thomas Jefferson, for then there would soon be a road from the Atlantic to the Mississippi. A bill on the subject had been reported last session, but, from some cause, had not been acted on. He concluded by observing that the present was not the time to go into a discussion on the merits of the great question of road or no road; but when that time did arrive, he would not shrink from defending his views on the subject.

Mr. SPEIGHT, on the suggestion of his colleague, (Mr. CARSON,) withdrew his opposition; and

The resolution of Mr. DODDRIDGE was agreed to.

WEDNESDAY, December 28.

South Carolina Claims.

The bill making an appropriation for the purpose of satisfying the claims of the State of South Carolina for moneys advanced by that State during the late war, in the purchase of military stores, and the payment of the militia called on for the defence of the State, came up as the special order of the day for this day; and the House went into a Committee of the Whole, Mr. DAVIS, of Massachusetts, in the chair, on that bill.

Mr. DRAYTON, who had reported it from the Committee on Military Affairs, called for the reading of the report of that committee, accompanying the bill; and it was read accordingly.

He then moved that the committee rise and report the bill to the House.

Mr. MCCOY called for the reading of a report made last session by the Committee of Claims, (of which he was then chairman,) in opposition to the claim; and it was read.

The committee then rose and reported the bill, which was amended by the insertion of the following item:

5th. The sum of $7,500 for blankets purchased by the State for the use of a portion of her militia, whilst in the service of the United States.

Mr. WILLIAMS, of North Carolina, said he should be glad to hear from the honorable chairman of the Military Committee whether the allowance of blankets to militia serving less than twelve months was not unusual, and whether that item in the bill did not involve an extension of the rules heretofore uniformly observed in disposing of claims of this kind.

Mr. DRAYTON replied. He admitted the allowance to be unusual, but insisted that the claim was equitable, and ought to be allowed; inasmuch as, without blankets, the troops would have been incapable of doing duty at all, as part of their term of service included very cold weather, and they were miserably provided with tents and clothing. He dwelt on the pernicious effects of refusing such an allowance, under the peculiarly hard circumstances of the case, and the discouragement which might thence ensue to future patriotic exertions of States in danger from the enemy, &c.

Mr. WARD supported the view taken by Mr. DRAYTON, and stated the circumstances under which the blankets had, on application of the officers commanding, been voted by the Legislature of South Carolina. He warmly insisted on the equity of the claim.

Mr. MCCOY complimented the patriotism of the gentleman from New York, and if the House would take up the subject, and make the allowance general, he had no objections. He stated what had been allowed to other States, and especially to Virginia, to whom compensation for expenditures of this kind had been refused. He said that his State would be a great gainer by the passage of the bill, as she could advance and support a claim of at least $200,000 on similar grounds. He did not see why South Carolina should be made an exception to the general rule, which had been applied to the claims of other States. If the States were to be paid for all the munitions of war which they had purchased for defence, Virginia could present a heavy bill, and would be entitled to a great deal of money from the Treasury. Hoping that the subject would receive a more mature consideration, he moved an adjournment; which motion succeeded.

THURSDAY, December 29.

Georgia and Florida Boundary Line.

A Message was received from the President, and presented by the SPEAKER to the House, with a communication from the Secretary of State, on the subject of the boundary line between the State of Georgia, and the Territory of Florida.

The Message and communication resulted from a resolution for inquiry, introduced by Mr. WHITE, of Florida, calling for copies of a correspondence with the Governor of Georgia, and other papers on the subject, and were accompanied by several documents illustrative of the particulars of the question.

Mr. WHITE, of Florida, said he had deemed it his duty to introduce the resolution which had produced the communication just read, from the President. It related to a subject of deep interest to the Territory of Florida, as it involved a contested question of the title and jurisdiction over one million and a half of acres of land. The United States were, of course, interested in an investigation of that

title, which is claimed by the State of Georgia on the one hand, and the charter of the colony, and by the United States, under the stipulations of the treaty of 1795 between Spain and the United States. The Territory of Florida was concerned in the decision of the right, and still more in the jurisdiction which will be brought in conflict very soon, if this question is not put to rest. There were already, between the two lines, serious apprehensions of the inhabitants whether they are under the control of the State of Georgia, or under that of the United States and the Territory of Florida. In a very short period questions will arise whether the inhabitants of the disputed territory are to serve on juries, work on roads, and pay taxes to one or the other Government. The State of Georgia had disposed of the question in a summary way, by running the line according to the view the authorities of the State entertain of the subject. We claim, and the United States are prepared to maintain it, that this land was ceded by Spain to this Government, and that the line has been run and settled, under the treaty of 1795, and that all the land south of that line was acquired, is now owned by the United States, and is a component part of the Territory he represented. To understand this question properly, it would be necessary to print, for the use of the House, with this Message, the previous correspondence and reports on the subject; and he would submit a motion to print the Message, and documents accompanying the same, as well as those heretofore presented, that the House might act upon the subject with a full knowledge of the facts. Mr. W. moved to refer them to the Committee on the Judiciary; which was agreed to.

Mr. WHITE asked the House to allow him to present a letter he had the honor to receive from Mr. Gallatin, and another from the draughtsman of the General Land Office, relating to the report of the commissioners of Spain and the United States.

The motion was received, and the papers ordered to be printed.

Virginia Land Claims.

The House took up the bill for the adjustment of the claim of certain officers and soldiers of the Virginia continental line and navy, during the revolutionary war.

Mr. WICKLIFFE expressed a hope that the House would order the bill to be engrossed for a third reading. Scrip had been issued from the land office for land warrants wrongly located in the military reserve land in Ohio, from what he conceived to be an erroneous construction of the law of 1830 on the subject. The land warrants located on lands of prior occupation should have been relocated on other lands, and not met by an issue of scrip. He adverted to the speculations in them when they were selling at the rate of twenty or thirty dollars the hundred acres; and stated that scrip had been issued on this wrong construction of the law to the amount of seventeen thousand two hundred and twenty-seven acres.

Mr. DODDRIDGE said that he was not at present prepared to say any thing either in favor of or against the bill. He was anxious for further information respecting it, and therefore should move its postponement till next Monday two weeks.

Mr. WICKLIFFE said the system of which he complained of issuing scrip, would, in the mean time, be continued, to the great injury of the public domain.

Mr. DODDRIDGE said the appropriation was exhausted, and no further injury could arise.

Mr. WICKLIFFE asked if he understood the gentleman from Virginia to say that there were no further claims on the military reserve between the Miami and the Scioto.

Mr. DODDRIDGE said yes; there were no claims to be satisfied on the land throughout the whole State of Ohio.

Mr. WICKLIFFE said that did not remove the injury he apprehended. The commissioner of the land office might issue scrip for the whole amount of two hundred and ten thousand acres, authorized by the bill, and for the whole of which the Government would be responsible. The appropriation only restrained the locations.

The question was taken on the motion for postponement, and carried in the affirmative—yeas 77, nays 55.

South Carolina Claims.

The House proceeded to the unfinished business of yesterday, which was the consideration of the bill for the adjustment and settlement of the claims of South Carolina against the United States; and the question being on concurring with the Committee on Military Affairs in the amendment proposed by them, which appropriates seven thousand five hundred dollars to reimburse that amount paid by the Legislature of South Carolina for blankets furnished to the militia serving in that State during the last war,

Mr. BLAIR, of South Carolina, entered briefly into a statement of the peculiar circumstances under which this money had been appropriated by the State. He adverted to the inability of the General Government to afford South Carolina the protection to which, by the constitution, she was entitled; its request that the State would avail herself of her own resources, and the manner in which the Government and citizens had volunteered for that end. He admitted that the allowance of blankets to militia serving less than twelve months was unusual; but insisted on the necessity of the case and the equity of the claim. His State had never been a troublesome suitor before the House. She had rarely petitioned at its bar for any thing, and all she now demanded was sheer, substantial justice. She had been a large contributor to the national

strong box, and he submitted it to gentlemen whether it was liberal, just, or politic to deal with South Carolina as if she were a swindler, and to apply to the equitable demands of a patriotic State the same rigid rule as if they were adjusting claims in a shop.

Mr. MCKENNAN, of Pa., said that he had listened with attention to the arguments adduced, had read the report with care, and felt an anxious desire, if he could consistently do it, to support the bill; but, after an examination of the subject, he was constrained to say that he agreed in sentiment with the gentleman from Virginia, (Mr. MCCOY,) and could not conscientiously vote in favor of the item now claimed. He would briefly state the reasons of his dissent. It was conceded on all hands that the State had no claim in law to this allowance; and it was sought to be supported on grounds of justice and equity. What were the facts? The troops in question had been draughted in the midst of summer; and before the season arrived when blankets would be necessary, enough of their pay had been due to enable them to supply themselves with blankets out of their own funds, as the law required they should do. In other parts of the Union, when militia had stood in need of blankets, they had sometimes been furnished by the States, but the amount had always been deducted from the soldier's pay. It was said that these militia were poor, that they were called out on a sudden emergency, and the exigency of the circumstances had been such as to induce the Legislature of South Carolina, out of humanity and liberality to her own citizen soldiers, to make the advance, for which remuneration was now claimed. He admitted the fact, and accorded to that State all praise for her liberality, but there he must stop. Such an expenditure furnished no ground of claim upon the General Government. Were all the sacrifices and sufferings of our militia confined to South Carolina? Her soldiers had served in the midst of a rich, fertile, liberal, and humane community, and their sufferings did not amount to a drop in the bucket, in comparison with those which had been endured in other parts of the Union, and especially on the Northwestern frontier. In other parts of the country, when a citizen soldier was in a state of destitution, his appeal was made to his fellow-citizens, and his wants supplied by the liberality of the public. Mr. MCK. here adverted to the exertions which had been made in Pittsburg and its neighborhood, in furnishing the volunteers with all they needed, and he insisted that if the present items should be allowed, all who had made such contributions would be entitled to a remuneration, as much as South Carolina. The amount might be comparatively small, but where was the difference in principle? Claims of this kind might be advanced by the whole Western country. Other States, Virginia and Pennsylvania, could present large demands on similar grounds. Should this door once be opened, where would be an end of the drain upon the Treasury? Could any gentleman say where these demands would terminate? The law had fixed the principle, and he could see no reason why it should be departed from.

Mr. MCDUFFIE said he should be sorry indeed that South Carolina should establish the precedent of an unjust demand upon the Treasury. But he should be equally sorry, on the other hand, should his State be deprived of her rights because other States had similar rights. The true view of the question was this: shall the United States refund to South Carolina the money she actually advanced for troops in the service of the United States? He adverted to the circumstances of the late war, and asked whether it was becoming, after a State had assumed a responsibility not imposed on it by the constitution, and had defended the Union from attacks of the enemy, that the Government ought to descend to a huckstering calculation as to the items of the account. Ought the State, after actually expending the money according to her best judgment, to lose it?

Mr. WHITTLESEY believed the gentleman was incorrect in supposing that there was any law which required the United States to furnish the militia with blankets at all. An act had indeed been passed allowing the President to accept the services of certain volunteers, and it provided for the furnishing them with blankets, but there was no general law on the subject. Militia received compensation for their services, and were to furnish themselves out of their pay. When advances were made to them by their State, the amount was always deducted from their pay. Should the item be allowed, the result would be this: that when the militia furnished themselves, as they were required to do, their State would raise no claim; but whenever the militia neglected to do so, the State out of humanity would supply them, and the United States must pay for all. And, further, not a soldier would furnish himself but would not have a just claim against the United States to the amount of his blanket; nor could the claim be resisted. The true rule was this: when the United States were bound to furnish individuals in their service with any particular article, and the Treasury being insufficient, a State volunteered to do it, then the United States must refund. But when the individual himself, or the State to which he belonged, was bound to furnish the article, then the United States ought not to pay. The principle of this claim would go yet further. If the General Government were bound to pay for blankets, they were as much bound to pay for clothing. On this subject Mr. W. quoted a case which had come before the Committee of Claims, where the claim, though not so strong as the present, was strenuously resisted, and the bill allowing it struggled with difficulty through the House.

Mr. NUCKOLLS said: I do not rise, Mr. Speaker, to discuss the general merits of the claim now under consideration. I had hoped that

when the House had considered the peculiar nature and the circumstances under which the military claim of South Carolina had accrued, it would have addressed itself to the justice, patriotism, and honor of this assembly so directly as to preclude all debate. I had particularly desired that no representative from Carolina should feel it necessary to urge its allowance, when the very fact of its existence reflected so much honor on the public spirit of our State. I relied on the intelligence of this body to estimate its justice, and their equity to direct its payment. But, sir, I find I am mistaken. Objections are raised to the particular item inserted in Committee of the Whole, which is now before the House. This section contains an appropriation of 7,600 dollars for blankets purchased by the State for the use of her soldiers, when the tents furnished by this Government were insufficient for their protection. Honorable gentlemen have objected to this allowance as unusual and improper, because, by the regulation of the United States, blankets are not furnished to troops serving for less than a year. Others object to it, because, if it be allowed in this case, other States may prefer the same demand, and that dangerous inroads will be made on the Treasury. Sir, I will enter into no argument in reply to these objections. But I feel bound to say that they do not partake of that spirit which animated Carolina in meeting the exigencies of that day? What was her situation, and how did she meet it? Sir, the enemy's vessels were off our coast, and every indication of an invasion of our territory, and sacking of our cities. This Government furnished none of those munitions for our defence, which it was her constitutional duty to have furnished, and when applied to for that purpose, responded that she had not the means, and South Carolina must defend herself. She called out her troops, and armed, clothed, and fed them. Sir, there was no quibbling about doing this. No calculations made, whether or no she might be repaid for all this, or whether it squared with the regulations of the United States. Her officers commanding these troops, seeing that the very lives of her soldiers were endangered for want of covering, did not hesitate to call on the Legislature, and that body, disregarding the cost, appropriated the amount contained in this section for the purchase of blankets. Such were the circumstances under which these articles were furnished, and such the manner in which this House meets them. Sir, I do not feel it proper that the representatives of Carolina should higgle with this House for sums thus expended. They flowed from her patriotism—she will not beg them from your justice.

TUESDAY, January 10, 1832.

Apportionment Bill.

The House went into Committee of the Whole on the state of the Union, Mr. HOFFMAN, of New York, in the chair, and took up the bill regulating the apportionment of representatives according to the fifth census.

The bill was read: [it proposed that one representative be allowed to every 48,000 inhabitants, after the deduction of Indians not taxed, and two-fifths of the slave population; and then went on to declare the number of representatives in each State, on this rule of apportionment.]

In introducing the bill, Mr. POLK observed that the committee had felt a great difficulty, and even impossibility, of recommending any ratio of representation which should obtain the unanimous assent of the House. The representation of the people of the United States in that House depended, according to the constitution, not on the total population of the Union, but on the respective numbers of inhabitants in the several States, excluding all Indians not taxed, and, also, two-fifths of the slaves, and including all other persons. No ratio could be adopted which would be perfectly equal in its results upon all the States: whatever number might be fixed on as entitling to a representative on that floor, there must be fractions left in most of the States, larger in some and smaller in others. This inequality, however it might be regretted, had its cause in the constitution itself. It had been so sensibly felt when the ratio of representation was established by the first Congress, that they had attempted to remedy it by allowing to such of the States as had very large residuary fractions an additional representative. The then President of the United States, General Washington, after mature consideration, and after detaining the bill in his hands until the last day allowed for his decision upon it, sent it back to Congress with his veto, and the reasons of it, which were two, viz., that no common divisor would give to the States the number of representatives allowed them by the bill; and that the proposed number of representatives was greater than one for every 30,000; and that, therefore, the bill was unconstitutional. The House had acquiesced in this construction, and reported accordingly a new bill, the effect of which was that each State lost its supernumerary fraction. This early exposition of the constitution had been afterwards regarded as settled, and had been acted on ever since. The constitution imposed but two limitations on this matter: the one was, that no State should have more representatives than one for every 30,000 inhabitants; and, on the other hand, that every State should be entitled to one representative. The effect was that the greatest number of representatives at this time could be no more than 397; the smallest, 24. The committee had recommended a number which they considered a just medium between these two extremes. It would give a House of such dimensions, that, on the one hand, the people would not be deprived of an adequate representation, and, on the other, the numbers of

members would not be such as to render the House multitudinous, unwieldy, and inconvenient. In 1790, the number fixed on as entitled to a representative had been 30,000; in 1800, 33,000; in 1810, 35,000; and in 1820, 40,000. The bill now reported proposed 48,000. This was a greater augmentation than had taken place in forty years. Looking to the unavoidable inequality of the operation of any ratio they could propose, the committee had also considered the effect of various ratios in leaving the unrepresented fractions in the different States; and, after maturely considering and comparing the difficulties, they had come to the conclusion that 48,000 distributed the fractions as equally among the States as any other number which could be fixed upon. The aggregate amount of all the fractions left by this arrangement would be 547,483. The committee had had no *criteria* from which to judge to what number of members the House would be most likely to assent. There existed a variety of opinions, whose advocates were in favor of a House more or less numerous. If resort should be had to experience, many were of opinion that the number of the existing House was quite large enough, and might very conveniently be continued. He had, himself, at first, agreed in this opinion; but he had subsequently been induced to coincide with a majority of the committee in the opinion that there ought to be some proportion observed between the increase and wide-spread population of the country, and its representation in that House.

Mr. CRAIG, of Virginia, moved to amend the bill by striking out the words "forty-eight" wherever they occurred, so as to leave the number blank.

Mr. JARVIS, of Maine, moved to amend the amendment of Mr. CRAIG, by inserting the words "seventy-five," which was negatived.

The question now recurring on the motion of Mr. CRAIG to strike out the words "forty-eight,"

The debate was now resumed with great spirit and animation, and was continued by the following gentlemen: Messrs. POLK, DANIEL, ADAMS, WICKLIFFE, CRAIG, TAYLOR, VINTON, and MCDUFFIE; when

The Committee rose, and reported progress.

Mr. WICKLIFFE moved that the Committee of the Whole on the state of the Union be discharged from the further consideration of the bill, and that it be recommitted to the committee who had reported it, with instructions to report it in blank; but

The SPEAKER pronounced such a motion at this time out of order, unless by the unanimous consent of the House.

Whereupon, the House adjourned.

THURSDAY, January 12.

Colonizing Free Negroes.

Mr. JENIFER moved the following resolution:

Resolved, That a committee be appointed to inquire into the expediency of making an appropriation for the purpose of removing from the United States and her territories, the free people of color, and colonizing them on the coast of Africa or elsewhere.

In supporting the resolution, Mr. JENIFER observed that the State of Maryland was deeply interested in the subject of the resolution, inasmuch as she possessed a greater actual amount of the population referred to than any other State in the Union. Virginia, he believed, stood next, in this respect; and Delaware, in proportion to her whole population, had possibly still more than either. Maryland felt severely the evils resulting from the presence of a population of this description; and if there existed within the power of the Government a constitutional remedy, she believed it ought to be applied for her relief. If there was any subject in which that State might be said to feel a more lively interest than in almost any other, it was this. It was expedient, and very desirable, that if any legislation took place on this subject, it should be had at as early a period as possible. The Legislatures of several of the States were now in session, and some of them would be looking to the General Government for its co-operation. If, on deliberation, it should be concluded that there was no provision in the constitution, and no means in the hands of the Government, then the States would have to look to their own resources; and they ought to know this as early as practicable. He had proposed a Select Committee on this subject, only because there was no standing committee to whom it seemed to belong.

Mr. SPEIGHT said that the subject embraced in the resolution was one of great importance, and he wished the gentleman would consent to defer the reference for a few days. It was one on which he had himself received many communications from his constituents, and he was desirous that some further time might be allowed him before any action of the House was insisted upon. Mr. S. said he was in favor of the policy which dictated the resolution, and, could he be satisfied that the General Government possessed the power referred to, he should be very glad to see such a measure adopted. He would suggest to the gentleman from Maryland the expediency of postponing the measure until Monday next. He wished the gentleman distinctly to understand that he was not against the resolution, but was in favor of the principle contained in it.

Mr. JENIFER thereupon agreed to the postponement.

WEDNESDAY, January 18.

Apportionment Bill.

The House then, on motion of Mr. POLK, went into a Committee of the Whole on the state of the Union, Mr. HOFFMAN in the chair,

and took up the apportionment bill. The question was on the amendment moved by Mr. HUBBARD, to strike out 48,000, and insert 44,000, so as to make the latter the ratio.

Mr. DOUBLEDAY said that he rose merely to correct a false impression that appeared to prevail in respect to the fractions. If gentlemen would investigate this subject, they would, perhaps, find they had less reason to complain of the fractions left their respective States, than they had supposed. They would then be prepared to vote on principle, and we should find less difficulty in passing a bill. He was not partial to a ratio of 48,000; it would leave his State a large fraction—a fraction of more than 41,000. But if even that number suited a majority of the House, he presumed the State of New York would not complain. We had heard that Virginia and Maryland would have large fractions by which they would suffer injustice. Well, what ought to be their fractions? At a ratio of 48,000, the aggregate of fractions would be 547,483, which, divided amongst the twenty-four States, would give an average of 22,812. The fraction of Virginia would be 21,843, and that of Maryland, 15,503. Virginia would be favored about 1,000, and Maryland about 7,000. These would be favored States. If gentlemen were determined their States should have no fractions at all, or even less than the average fractions, it would be evident that no ratio whatever could unite a majority of votes, and, of course, we could not pass a bill.

Mr. GRENNELL, of Massachusetts, was in favor of the amendment which proposed to fix the ratio of representation at 44,000. That ratio would give a House of Representatives, consisting of 259 members, and more numerous by 46, than the present. In briefly assigning the reasons for the vote he should give on this question, it was not his purpose, he said, to call the attention of the committee to any minute calculation of the effect of various ratios. Every practical calculation of that sort, on ratios as high as 60,000, seemed to have been laid before the House, and must be familiar to the members.

Sir, said Mr. G., I prefer the ratio proposed by the amendment to any above it that has been mentioned, in the bill, or in debate; because it will not reduce the present number of representatives on this floor from any State in the Union. Nor will it, in my apprehension, swell the numbers of this House to an inconvenient size for the transaction of the public business. I acknowledge myself an advocate for a numerous House of Representatives, as being most consistent with the genius and design of this Government. Is it not constituted to reflect the popular will? But the perfection of the representative principle is only found where the public agents exhibit, most truly, the sentiments, wishes, feelings, and interests of the whole people. This great object is most completely attained by forming a numerous House on a comparatively small ratio. On such a body of representatives, the people will impress their own character. But the higher you raise the ratio, the further you remove the member from his constituents, from their intercourse and sympathies, and the further you depart from the true principle of representation. If this be so, said Mr. G., how can a body of representatives be said to reflect the character and will of the people, when, either from the extent of their districts, or the great number of their constituents, they can hardly be supposed to understand their sentiments or interests? On the other hand, how, in such a state of things, is the member to make known to them, clearly and effectually, the measures, the men, and the policy of their Government? The representative stands, in some sort, between the Government and his constituents, the medium of communication and action. They desire to hold him to a fair responsibility for his public acts. This necessary estrangement, of which I speak, between members and the people they may have been chosen to represent, will open the way for demagogues, by arts and imposition, to excite the popular jealousy, and supplant the representative in their favor and confidence.

But, sir, I find some support for my position, in the fact stated by my honorable colleague, (Mr. ADAMS,) that the first House of Representatives under the constitution, which consisted of 65 members, bore the same proportion to the population of the country, which the number given by the amendment to the bill bears to our present population. I am glad to find the coincidence; for I love to revert to that glorious period, and to the men of that period. I fear we are fast departing from their safe examples, and discarding their lessons of political wisdom.

When the people accepted the constitution, they supposed they discovered great security for their dear-bought rights, in the provision for a body of representatives chosen by themselves. It was their chief hope. To them alone were they willing to confide the power of originating laws by which they were to be taxed. No matter whence they derived the hint for this wise and cautious provision, I refer to the fact, simply as illustrating the policy of the people of that time, in constructing that branch of the National Legislature, which, by its members, issuing from among themselves, would alone be competent to carry out their purposes, speak their language, sustain their spirit, and embody their character. Another fact gives some testimony to the point in question. By the constitution, 30,000 was established as the first ratio of representation. This was a startling feature. It was opposed in many of the State conventions. In that of Massachusetts, many considered 30,000 people as too great a number to be represented by one individual. But still it was finally judged that the House of Representatives, as it was then

constituted, in numbers and in powers, might be a just counterpoise to the Executive Department of the Government. Sir, the people are slow to change their sentiments of political expediency; and I venture the assertion, that the same jealous care for a full popular representation still pervades the nation. And could the sense of the people themselves be collected, on this momentous question, it would be decisive in favor of it.

But, said Mr. G., a numerous popular representation has not only been regarded, through all our history, as a favorite feature of our republican system, most consonant with its spirit and design, and as most of all reflecting the character of the country, but it must ever remain the safest depository of power. It is a common complaint, that the tendency of power, in a free Government, is to the hands of a few. If an aristocratic influence shall ever arise, under any Administration of this Government, here, in this Hall of the people's representatives, must be found the remedy, the counteracting power. Could a numerous House ever be subjected to such control? Sir, it would be detested and repelled by the characteristic jealousy, independence, and firmness of a popular representation. I see other reasons for a rigid adherence to this cardinal principle in our Government. The time may come when Executive influence will be brought to bear upon this House, to awe it into subserviency, or corrupt its action. It may be attempted to be exercised among the members, not, perhaps, by direct assaults upon their integrity, but by the arts, and flatteries, and favors which ambition knows so well how to employ. In such times, where is the people's first reliance? In a small body of representatives? No, sir; they would find safety in numbers.

Mr. Chairman, I am the more confirmed in my opinion on this subject, when I consider the great powers vested by the constitution and laws in the Executive of this Government, and the patronage in his power to bestow. Having the power of nomination (which may, in some future period, and with a subservient Senate, be equivalent to the power of appointment) of cabinet officers, Ministers to foreign courts, of officers in the army and the navy; appointments to the almost countless offices and employments connected with the Indian Department, and the sales of the public domain—holding, I say, this prodigious amount of patronage, would it be marvellous, if some Executive, in future time, with a view to carry some favorite measure through a very limited House of Representatives, should dispense a share of this patronage among the friends of its measures? Would attempts like this ever be made to bring over the majority of a large House? Which could be most easily bought up? It was intended by the constitution that power should be so distributed among the several departments of this Government, that no one should ever acquire an undue weight and influence, and that neither should be depressed. But, sir, have we not, for years, witnessed an undue accumulation of power in the hands of the Executive, and in the Executive and Senate? The treaty-making power alone is of amazing extent, in their possession, with all its train of incidental influences. And some have feared that it might be attempted to be exercised in derogation of the legislative power. To guard as far as possible against the abuse of any or all of these powers, this country wants the vigilance, firmness, and integrity, which could be combined in a full and numerous House of Representatives. In every view, therefore, a large House presents decided advantages; and if my reasoning be not deceptive, is less liable to bad influences—more safe for the people, and for the constitution.

It has been sometimes asked by the advocates of a small House, how we would limit the numbers; and what rule shall be adopted for that purpose. Sir, I answer, as the population of the country increases, I would enlarge the representation here until it should be apparent that an additional number would produce embarrassment and inconvenience in legislation. It should not be so large as to be unwieldy in action, nor yet so small as to reflect imperfectly the character of the country. Has any evil resulted from the increase of numbers here? What is the experience of the country on this subject? Is there in this House less despatch of business, than in some earlier periods of the Government? Less wise deliberation? Less decorum of debate? Have the sessions of Congress in late years been protracted beyond the period occupied by them when the numbers of this House were less? If this were so, the reason would be found not in the delay produced by excessive numbers here, but in the new interests and multiplied objects of legislation that are constantly rising up throughout our widely extended country.

Mr. Chairman, I see and deprecate the tendency, in this country, to adopt the habits, manners, and sentiments of the old Governments of Europe. It becomes us to hold back, to rest upon the republican plainness of our national character, and the political doctrines of earlier times. It would be strange, indeed, if, while England and France, and the latter under the guidance of the illustrious Lafayette, are endeavoring to perfect their representative systems, the people of this enlightened country should be found adopting a course of policy in reference to our own, illiberal and unwise.

Sir, I have expressed the wish that the ratio which is to determine the representation here for the next ten years should be such that each State should retain at least its present number on this floor. I will not deny that it would be to me a matter of deep regret that the State from which I come should be deprived of one representative in Congress. Such will be the case, if the ratio be fixed at forty-eight thou-

sand. Is it expedient? Is it wise to raise it so high? For Massachusetts I ask no favor at the hands of this Government. I only demand for her justice. Nor will I, in advocating her claims, refer the committee to her earlier history. No, sir, I would speak only of the resources and the great interests of that commonwealth, as they stand connected with those of our common country. And in any view that I can take of this subject, I can discover no national considerations that seem to demand the sacrifice. But her people will acquiesce in the decision. And though it may affect her political influence unfavorably, they will be content to know that no untoward legislation here can disturb the moral and social condition by which they are distinguished, nor the wise and liberal institutions which they cherish as the fairest inheritance of their Puritan ancestors.

Mr. ALLAN, of Kentucky, addressed the House in opposition to the amendment. He agreed in the sentiment expressed by the gentleman from Massachusetts, (Mr. ADAMS,) and the gentleman from Virginia, (Mr. MERCER,) that the question before the House was one of great importance; but as to the number of members which the House ought to contain, he differed widely from them both. For their experience, learning, and matured wisdom, he had long entertained the most profound regard; and to be obliged to oppose them, added to his embarrassment on the present occasion. Thus far the question had in general been treated as one of purely an arbitrary nature, and subjected to no certain rule. Two, however, of the gentlemen from Massachusetts, had proposed to lay down a rule, which he should now proceed to examine. One of the gentlemen (Mr. ADAMS) had reminded the House that the first Congress contained but sixty-five members, since which the population of the country had increased fourfold; and should the number "44" be adopted, and its results produce a House of two hundred and fifty-nine members, there would be exactly the same increase in the number of representatives as had taken place in the number of the people. From this statement of fact, Mr. A. said he inferred that the gentleman intended to lay down this rule, that representation ought to increase in proportion to the increase of population. That was the gentleman's rule, and he invited the House to examine its practical operation, and the influence which, if adopted, it must exert on the condition and even on the future destinies of the country.

The House in forty years would have grown from sixty-five to two hundred and fifty-nine members. According to the same ratio of increase, it must at the end of forty years more contain more than one thousand members, and in the course of a century the country would possess an army of four thousand Congressmen. Should such a principle, or any thing like it, prevail, he would venture to pronounce it impossible to transmit our free institutions to posterity. Congress now occupied a building three hundred and fifty feet in length, containing one hundred rooms, and covering an acre and three-quarters of ground; but, on the gentleman's principle, it would require a building covering ten acres.

The very experienced and learned gentleman had advanced another argument in opposition to the number forty-eight. It was, that four of the States would lose, each, one representative; a result which would not only impair their relative weight as States, but also that of the respective sections of the Union to which they belonged; and thus the balance which now existed between different portions of the country would be disturbed. From the premises laid down, he must say that the same conclusion did not strike him. How was the number of the House to be determined? By the ratio of representation adopted. But, supposing the number to be doubled—would that alter the relative weight of the different States on that floor? When two scales were equally poised, should equal weights be added, or equal weights subtracted from both, the balance would not be in the least affected; neither would that of the Northern and Southern sections of the Union be altered should each lose two representatives.

Mr. A. said he would not advocate a proposition to detract the smallest mite from the weight of any one State, as their weight was measured by the constitution. But he could not think there was any thing in the result the gentleman had stated, of importance sufficient to justify so radical a movement as the addition of forty members, at once, to the members of that House.

The gentleman from Virginia, in his usual forcible and lucid manner, had commented on the relation which this House sustained to the other branch of the Legislature, and to the Executive Department, and had argued to show that the number of the House ought to be increased in order to increase the weight of the popular branch. Mr. A. said he could not comprehend how such a result would follow; but, supposing the gentleman to be right, how did the two Houses now stand? If their relative numerical weight, as fixed at first by the constitution, was then duly regulated, it was manifest that the House had got greatly in advance of the Senate; for, while the number of the Senators had not even doubled, that of the Representatives had become nearly fourfold. There could, therefore, be no necessity of enlarging upon that ground. But the gentleman had further said, that as the Government grew older the Executive power increased, and would continue to increase yet more; and a large House of Representatives was necessary in order to put this body further from the reach of Executive influence. Now, to his apprehension, the very reverse of this proposition was true, and in support of his opinion he would appeal

to history. All history concurred in showing that large numbers of men were more readily actuated by impulse and sudden excitement, and were more apt to be broken into parties, and blindly to follow artful leaders, than small ones; and the power of an extraneous influence had, in all times, been more commonly and more readily exerted over numerous assemblies than over those which contained fewer numbers. It had been said that the British House of Commons contained six hundred members; but that body was an example in point to support his own view; for, although it was so numerous, the business was actually accomplished by very few of the members. The great mass do not even come into the House, except when they were summoned on some great question. A quorum in the Athenian assembly consisted of six thousand men; yet every one knew that that assembly was controlled by a few orators. So perfectly was this understood, that when Philip of Macedon wished to obtain the control of that body, all he had to do was to purchase up a majority of their leaders.

Mr. A. invited the House now to look at an opposite example. The Congress of '76 had consisted of but fifty-four members. On one side was despair, on the other all the power and wealth of England to corrupt. Yet did the result furnish as glorious a comparison as any that had ever been seen on earth. There appeared, therefore, to be little or nothing in the argument of the gentleman from Virginia, that increasing the numbers of the House would screen it from the influence of Executive power.

Mr. A. said that he could not agree that the subject was one perfectly arbitrary in its character. He considered it, on the contrary, subjected to as certain rules as could apply to any political or moral question. The natural endowments of man suggested an obvious rule. The powers of the human voice and ear marked the limit which should regulate the size of any deliberative assembly. That assembly was wholly unfit for its functions, every part of which could not be reached by the voice of a member addressing it. Where men could not see, hear, or understand the subject proposed to them, it was physically impossible they could deliberate upon it.

He might appeal to the gentleman's experience here for the last month and a half. What was more common than to hear subjects announced from the Chair discussed at length, and, when the House was ripe for decision, to see members rise in their place and inquire what was the question on which they were called to vote. Yet it was now proposed to bring forty members more into such an assembly! He had heard several gentlemen say, on the first day of the session, that they had not heard a single word of the Speaker's address, although that gentleman possessed, as they all knew, a fine commanding voice.

Mr. LECOMPTE, of Kentucky, declared his intention to vote for the amendment, not that Kentucky would suffer by the number forty-eight, but because he was unwilling to deprive any State of a representative, whose population had increased since the last census. The total increase would average four thousand constituents to each representative, and he knew how discouraging it must be, under such circumstances, for a State, every one of whose members represented now four thousand more people than before 1820, to lose one of their number. He did not fear a numerous representation. The people took pride in their representatives; they knew them personally, and made them the depositories of their wants and grievances. Kentucky had had to bear with large fractions under former censuses, and she could hold her own should forty-eight prevail; but he should vote for forty-four for the sake of other States. As to the fear of too large a number of representatives, they could move their seats closer together; and if the gentlemen who were continually on their feet would but curtail the length of their speeches, the House could do its business, and they need not be so much afraid that the introduction of a few more silent members would deprive them of the opportunity of speaking as often as they pleased.

Mr. ELLSWORTH, of Connecticut, said there was one general consideration, and, he thought, but one, which would influence gentlemen to strike out forty-eight and insert forty-four; and that was whether a representation in this House should be more or less numerous. Some, said Mr. E., declare they are in favor of increasing it even to some hundreds, and others, that it is large enough now: the first think that a great number will best secure the liberties of the people, and more fully represent their diversified interests; while the second class believe that a smaller number equally secures the same objects, and that a large increase will inevitably embarrass our legislation. Twenty-eight, the increase of this House by the ratio of forty-eight thousand, is not, in my opinion, too great an increase. I do not, certainly, wish to see this House diminished, nor, with the present population of the country, increased beyond what is proposed by the ratio of forty-eight thousand. When gentlemen speak of numerous representatives in State Legislatures, or in the English Parliament, and argue from thence that two hundred and forty-one members are too few here, I must ask them to remember that local interests and small matters in detail constitute extensively subjects of State legislation, which is not the fact here; we legislate upon general and national objects. And as to the English Parliament, why, the representatives in Congress are expected, all of them, constantly to attend and understand the business before them, and to participate in it, as most of them do, to the advantage of the country: but this is not the case in Parliament;

six hundred there, do not ordinarily give as good a representation or as large a House as two hundred here. Should all the members of Parliament attend as we do here, and participate as we do in the business and debates of the House, the business of the nation would never be done. I would not object to forty-six thousand, though I think forty-eight gives a better House, and is more in accordance with the past. The honorable gentleman from Massachusetts (Mr. ADAMS) complains of the hardship of losing a member, and almost pronounces it injustice. It is to reply to this consideration that I rise at this time. Why, sir, the ratio of forty-four may do more injustice to the whole people than forty-eight: in having four representatives, we may not have as equal a representation as in losing them from certain States. We are, as to this matter, to look to the whole, to the relative representation of the States on this floor; and, if we apply the same rule, we have the same relative representation, whether that representation be smaller or greater; fractions only make the difference, and in this the greatest States are the least sufferers.

Now, sir, the fractional difference between forty-four and forty-eight thousand is only about forty thousand; certainly too small to rest an objection upon; and, indeed, taking any number from forty-four to fifty-four, the fractional difference does not exceed one hundred and fifty thousand; not enough to bring into this House three representatives. So that, after all, there is nothing here but a question of numbers in this House. No State can complain, if it is best to take forty-eight. Sir, if any State has claim on this ground, it is Connecticut, and Massachusetts least of all. By the ratio of 1810, Connecticut had an unrepresented fraction of sixteen thousand, and Massachusetts one of six thousand only; by the ratio of 1820, Connecticut had a fraction of thirty-five thousand, and lost a member, as did Vermont, but Massachusetts of only three thousand; and yet Massachusetts voted, as she had a right to do, in phalanx, to favor her own representation. Connecticut, too, was comparatively a small State, and she could not well afford to lose one-seventh of her representation, but she did; and now, with forty-four, as it is wished by Massachusetts, Connecticut will have a fraction of over thirty-three thousand. Forty-nine would be more acceptable to me, individually, than any other number, as most favoring Connecticut, but I will be satisfied with forty-six, which will save Massachusetts and Virginia. I do not speak of the past with any feeling of unkindness towards Massachusetts; but if taking away a member was not unjust or improper in 1820, it is not now. Sir, I am in favor of a full representation in this House; I wish ever to be able to hear the people; but then they may be less heard and attended to by an overgrown representation, than by one of a proper size. I believe the interests of this country have been fully represented in this House, and that twenty-eight new members is quite equal to the increased population. It is impossible for us to act, in all time, upon the principle of preserving to each State its present representation. Such is the rule of the constitution, that the people must be represented where they are, and not where they are not.

Mr. TRACY, of New York, said he understood that on the present motion the merits of the whole bill were a fair subject for discussion at this time, and he should assume this to be correct in the few observations which he purposed to submit to the committee.

I cannot but regret, said Mr. T., to have witnessed, for the two last days, the impatience evinced by many gentlemen, while members have been expressing their views on the subject of the apportionment bill, which I consider one of grave moment, and probably as important in its effects on the future legislation of this country, as any which will be discussed here during the present session. It was provided in our constitution that the actual enumeration of our population should be made within three years after the first meeting of Congress, "and within every subsequent term of ten years." This subject, then, is one, not of annual recurrence; it never has and never can arise oftener than once in ten years, according to the former usages of our Government. It, therefore, becomes peculiarly our duty to canvass the subject fairly and fully; to act with great deliberation and mature reflection in deciding upon its merits; and to endeavor to reconcile the discordant sentiments of the different members composing this committee. Most of those questions which are acted upon here, present two aspects; and gentlemen, without much difficulty, are able to arrive at a conclusion satisfactory to their own judgments; but, from the very nature of this subject, there might be a great diversity of opinions as to details, as every one who proposes an amendment presents, in fact, a new side of the question, and, in support of his opinion, is able to urge arguments both cogent and reasonable.

The present House of Representatives is composed of two hundred and thirteen members; the bill reported will give us two hundred and thirty-seven; and, should we adopt the proposed amendment, our number would be two hundred and fifty-seven; an average of forty-six beyond our present representation.

Sir, said Mr. T., I cannot but consider the report of a respectable committee of this House, to which an important subject has been referred, as deserving of great consideration, and I am generally disposed to receive their report as based upon correct principles, though I should feel it my duty to scrutinize the same, when that committee is composed of high-minded, honorable, and intelligent gentlemen, from different sections of this country, and

who, I believe, act with a single eye to the public good, and who possess full means of obtaining information on the subject intrusted to them. I would not for slight reasons vary from that report. And I cannot but think that the number which they have reported as the ratio of representation, will do more equal justice than any other.

It was correctly remarked the other day by a gentleman from Virginia, (Mr. CRAIG,) that we could not expect to arrive at a conclusion without a spirit of conciliation and mutual concession. I concur with him in his opinion. Under the bill as reported, it is true many of the States, over and above their contemplated number of representatives, would be left with large fractions, and four, to wit, Vermont, Kentucky, Georgia, and New York, with over forty thousand each; but were we to adopt any other basis, the fractions of these States might be diminished by the operation; others would be placed in the same situation; what would be the gain of some, would be the loss of others. It is true, by diminishing the votes proposed, the fractional parts might be lessened; but, as in the bill reported, these remnants would be relative, and the hardship, in this respect, not less than now. It becomes our duty to disregard particular hardships, if not too flagrant, and look totally to the general welfare of this Union. Until the report of the committee was presented, and the tables of calculation laid before us, as a representation from the State of New York, now represented by thirty-four members on this floor—under the bill we have thirty-nine, and, should the amendment prevail, to have no less than forty-three members—I was disposed to favor such a ratio, as it, at least, would not increase our numbers here from that State, and perhaps as great a one as fifty-five or sixty thousand. Perhaps my impressions were too hastily received, and one consideration, with me, of greater weight than any other, has induced me to change those impressions. If we should extend beyond forty-eight thousand, one independent State in this Union would be deprived of half of her representation here; and if the ratio should not be carried above forty-nine thousand, and one forty-eight thousand, she would be left with a fraction sufficiently large, wanting a few hundred, to entitle her to another representative. I think that the feelings of the citizens of that respectable State ought to be regarded, and her interests consulted. Justly might she complain of unfairness and illiberality, should this result be produced. I trust I entertain no feelings for Rhode Island different from those which I might possess for any other State which might be placed in the same situation. The case of Delaware has been mentioned as a precedent for a similar hardship. Under the former census, she was deprived of one-half of her representation on this floor. Her case was truly a hard one, and yet the fraction was far less than what would remain to Rhode Island at a ratio of forty-nine thousand. The example heretofore set ought not to sanction injustice now.

THURSDAY, January 19.

Apportionment Bill.

The House, on motion of Mr. POLK, went again into Committee of the Whole, and resumed the consideration of the apportionment bill.

Mr. BRIGGS was in favor of the motion of the gentleman from New Hampshire to strike out forty-eight and insert forty-four thousand as the ratio of representation; and he would bespeak the indulgence of the committee whilst he presented some of the considerations which had induced him to support the motion.

This is the most important question which has been presented during the discussion of the subject before the committee. I consider it so, because it proposes the highest ratio which will save to each of the States their present number of representatives upon this floor. If forty-eight thousand prevails, you take from the Southern States, and from New England, two of the sections of this country, two members each. The same thing, as it respects New England, occurred under the apportionment of the census of 1820. If the bill, as reported, becomes a law, the operation of the two apportionments will be to reduce the number of representatives from the New England States more than one-tenth. The gentleman from Tennessee, I presume, could not have been aware of this effect when he adverted to the operation of the last apportionment to sustain the report of the committee in this case. This bill, sir, strikes from New Hampshire one-sixth of her representation on this floor; from Massachusetts, one-thirteenth; from Virginia, one-twenty-second part; and from Maryland, one-ninth. If these consequences, so unfortunate to the individual States, and so undesirable to their sections of country, can be avoided without the introduction of greater evils, I trust that the justice of this Congress will see that it is done. The population of Kentucky is less than that of the adjoining State of Tennessee by something short of four thousand. Forty-eight thousand gives to Tennessee an additional representative over Kentucky. This is an inequality in the condition of two States, located side by side, which the most obvious principles of right require should be avoided. Adopt the proposed amendment, and you produce this desirable result. Again, sir, forty-four, whilst it preserves the present number of representatives to every State, leaves a less general fraction than any other ratio, from forty to sixty thousand, except forty-two and forty-nine thousand; and it exceeds that of these but a trifle. It elects more members with small fractions than any other number within the above range. If you adopt this number, it will give you a House of two hundred and fifty-nine members. Divide

the whole federal population of the United States by this number, and about forty-six thousand will be the general average amount of population that will choose a representative.

Gentlemen tell us that at forty-eight thousand, which takes a member from the delegation from each of the States before named, the constitutional proportion among all the States is preserved, though they deeply regret the effect upon the losing States. This, sir, is certainly true; but I reply that at forty-four thousand the same just proportion of which they speak will be maintained, and the very desirable object of securing to every member of this confederacy its present number is obtained. The condition of those great and increasing States, whose growing numbers will add to their delegation at each succeeding census, is widely different from that of the old and small States, whose population remains comparatively stationary, and who may be destined to lose one or more of their representatives every ten years.

Mr. Chairman, are there not reminiscences connected with the history of these old States worthy of consideration in the settlement of this important question? The four States most deeply affected by the decision which we are about to make, are numbered among the immortal thirteen. May they not point you to those great transactions which gave birth to this free republic, and ask you to remember the days of their trial, and the deeds of their valor? May they not, in the language of kindness and affection, say to their younger sisters, do not, in your prosperity, unless some great principle demands it, or some great interest makes it necessary, drive one of our members from this floor, whilst you are so fully represented? May they not say to their sisters of the West, that the great domain which constitutes your rich inheritance was purchased by their blood and treasures, which flowed as free as the rushing fountain? They envy not your prosperity, nor would they check the rapid current of your population. Their children and their dearest friends are among you, participating in the success of your unparalleled fortune. But they ask you to remember that, in the days of your minority and weakness, they successively took you by the hand, and, upon the principle of equality and justice, introduced you into the great republican family. They are gratified with your increasing wealth. They are proud of your advancing greatness; for you are a portion of their common country. Sir, may not old Massachusetts and old Virginia ask their elder sister, New York—that great nation in itself—to remember the perils and the conflicts of bygone times? In the great struggle of the revolution, the State of New York, who now appears upon this floor with a phalanx of representatives equal to the whole of New England, was comparatively small, and stood in need of the aid of her powerful neighbors. In every part of her territory which was then inhabited, may now be found the bones of their sons whose blood crimsoned her invaded soil. Their relative condition has now changed. She has become numerous and powerful, and they comparatively small. When she can at once be generous and just, will she be unmindful of her ancient friends? Can she forget Virginia, and Maryland, and Massachusetts, and New Hampshire, the associates of her youth, the sharers of her toils, the companions of her glory!

The census of 1820 gave us a population of ten millions. The ratio under that census was forty thousand. The people did not complain that that number was too small. The circumstance attending that ratio, which I sincerely regret, is, that the principle of reserving to each State her existing number had not been regarded as sacred. With a population of ten millions, we had two hundred and thirteen representatives. We have now an increase of three millions, to which the bill on your table substantially proposes to give twenty-four members, or one to one hundred and twenty-five thousand.

These, sir, are some of the views and facts which present themselves upon the face of the bill itself, and which result from an examination of the tables reported by the Select Committee, and which have had an influence in leading me to the conclusion that forty-four thousand is the number which ought to be established.

SATURDAY, January 21.

Minimum Duties.

The House took up the resolution moved by Mr. BOULDIN on the 27th ultimo—the question being on the amendment moved by Mr. DAVIS, of Massachusetts, as modified yesterday.

Mr. MITCHELL, of South Carolina, was opposed to the amendment in any shape. He objected to it because it was too comprehensive, and therefore impracticable. It called for information coextensive with all the pursuits of industry—with the various and complicated interests of this vast confederacy, and could not possibly be collected before the end of the session. Mr. M. said, before he gave his reasons for supporting the original resolution, he could not but express his regret at the unconciliating, unconceding, and uncompromising spirit which the gentleman from Massachusetts (Mr. DAVIS) had exhibited. From the course of the New York convention on the tariff, he had hoped that every member had come here with the determination to vote for a reduction of it on liberal and patriotic terms. The gentleman from Massachusetts had taken occasion to show the great advantages of the woollen manufactures to agriculture. And how, said Mr. M., did he prove this proposition? By showing how much wool a woollen manufactory of a certain capacity would require—how many

sheep would furnish that wool—and how many acres of land would sustain those sheep; in other words, that these manufactories sustained the farms located around them. Why, sir, if they sustained the whole agriculture of New England, they would not be a national benefit, for that is so inconsiderable as not to form an item in our Treasury calculations. It does not do more than subsist her laboring poor. New England derives her wealth and glory from other sources. Mr. M. said he would now proceed to the resolution. It had two objects in view; the first was, to ascertain the real protection which the manufacturer derived from the ad valorem duty under the act of 1828. This was very different from the nominal or apparent protection from the mode of assessing the duty at the custom-house. By the act, the duty of 45 per cent. was calculated on the costs, with the addition of 10 per cent. and the incidental expenses, which he understood to be about ten per cent. more. Now 45 per cent. on $120 was $54, which was the real protection which the manufacturer received. Is it not all-important to inquire, then, into the price of them as protected articles, and the incidental expenses?

The second object of the resolution was to inquire into the practical effect of the minimum duties. It was an arbitrary valuation of the commodity far above the real value, to increase the real protection of the manufacturer.

Thus a woollen cloth costing 51 cents the square yard, was valued at 100 cents, and a duty of 45 per cent. calculated on it, it paid a duty of 45 cents, which was 90 per cent. on the cost, and not the nominal sum of 45 per cent. on the value of the article: there were four other minimums on the same principle. This minimum principle was no doubt introduced for the purpose of deluding and deceiving the people—for, by adopting these minimums, a duty of 90, 100, and 150 per cent. passes for an ad valorem duty of 45 per cent. Had the tariff act made a full display of these duties, it would have exposed their selfish avarice, and forced the people to drive those out of Congress who had passed it. But this minimum principle is as unjust as it is delusive. This is literally a tax on the poor. A laborer who purchases coarse woollens, for which he pays 51 per cent. a square yard, is subject really to a duty of 90 per cent.; while the rich, who wear the finest and highest price cloths, pay but 50 per cent. duty. Again, it is an encouragement to smuggling and frauds on the revenue. The difference of a cent in the invoice price will make a difference of 50 per cent. in the duty. Thus, a cloth costing 51 cents the square yard, pays a duty of 45 cents the square yard; which, if it be invoiced at 50 cents, will pay no more than 22½ cents the square yard. Accordingly, we find that it has given rise to smuggling and frauds on the revenue laws of all kinds. In the late convention at New York, a Mr. Ellsworth stated facts of a most alarming nature. He said that frauds were daily committed in that city; that the duties on a single package amounted frequently to $400—that a fraud had been lately detected in the importation of 2,500 pieces of cloth, which, if it had succeeded, would have been a gain to the merchant of $48,000—that within the last six months 500 packages had been seized, and that there had been but one condemnation in two years. Does not this statement prove every thing?—first, that the temptation to smuggling is immense; secondly, that it is carried on to a great extent; thirdly, that the juries will not convict under this act—for this witness tells us that within the last six months 500 packages had been seized—that there had been but one condemnation in two years?

Mr. MCDUFFIE thought that in all cases of resolutions for mere inquiry, upon principles of right—at all events upon those of courtesy—it was due to gentlemen making the inquiry, that they be permitted to do it in their own form. He would not decide for the gentleman from Virginia, (Mr. BOULDIN,) whether the amendment of the gentleman from Massachusetts (Mr. DAVIS) would meet his views. He was perfectly willing the gentleman from Massachusetts should have his inquiry answered. Let the original resolution, with the amendment attached to it, be both adopted. He trusted that gentlemen would not pursue this incidental debate, from which nothing profitable could result.

Mr. DAVIS was about to reply, when

Mr. APPLETON, of Massachusetts, said that he did not rise with any intention of entering into a discussion of the tariff. He had, in an early stage of the debate on this resolution, attempted to get the floor with a view to submit a few remarks on the subject to which it referred; but not having succeeded in doing so, and believing the House had become wearied with so protracted a debate on a mere resolution of inquiry, he had determined to give a silent vote on the question before them. But after the remarks which fell from the gentleman from South Carolina, charging the friends of the protective system with a determination to stifle inquiry, he must ask the indulgence of the House for a short exposition of the views under which he acted.

The object of the resolution was an inquiry into the nature and effect of the minimum duties which had been introduced into our revenue laws. The gentleman from Virginia, who introduced the resolution, had stated that these minimums were to him a mystery; that he had made inquiries of a great number of persons, but he never had been able to find any one who could resolve it.

The gentleman from New York came forward, when it was proposed to transfer the inquiry from the Committee on Commerce, with a declaration that he had traced out this horrid mystery; that he was prepared to draw aside the veil which concealed the real character of

these minimums, and to expose them to our view, a monster of deformity; and he dared us, under the peril of the yeas and nays, to refuse to look the monster in the face. To me, sir, the language of both these gentlemen gave unmingled astonishment. I had supposed myself familiar with these minimums, and believed them as plain as simplicity itself, and as harmless as they were simple—as harmless as the gentleman informs us he considered his own resolution, and which I certainly consider as harmless as he can do. Why, sir, what is a minimum duty? Simply a specific duty, nothing more. The very object of establishing a minimum is to change an ad valorem into a specific duty. Take, for instance, the article of cotton. The existing law imposes a duty of eight and three-fourths cents the square yard on all cottons costing less than thirty-five cents; so of woollens, they are divided into five classes, paying specific duties of fourteen, twenty-two and a half, forty-five, one dollar twelve and a half, and one dollar and eighty cents. They vary in nothing from the duties on teas, spirits, raw cotton, and many other articles, but in the mode of classification. Teas are divided into five classes, according to color, or some other distinctive quality, but the operation of the duty on teas is more unequal than that on woollens. Some descriptions of black teas pay the same rate of duty as others which cost double the money. The same of raw cotton, the duty on which amounts to about twenty-five per cent. on the value of Brazil cotton, whilst on that of Bengal it would amount nearly or quite to seventy-five per cent. on the cost. These minimum duties therefore are neither more nor less than specific duties. But they are denounced as an artful invention of the manufacturers, under which to conceal their extortion and rapacity; a fraud upon the people; anti-republican, opposed to every principle of justice. Under these circumstances, it may not be amiss to look into the origin of these minimums, to inquire into their history. The form of the minimum as a specific duty was introduced into our legislation under the auspices of one of the purest names enrolled on the list of our departed worthies; that of William Lowndes, of South Carolina. He it was, as chairman of the Committee of Ways and Means, who introduced the act of April, 1816, imposing a tariff of duties, containing this clause: "Provided that all cotton cloths, the original cost of which at the place whence imported, with the addition of twenty per cent. if from places beyond the Cape of Good Hope, or ten per cent. if imported from any other place, shall be less than twenty-five cents per square yard, shall, with such addition, be taken and deemed to have cost twenty-five cents per square yard, and charged with duty accordingly." This provision imposed a specific duty of six and a quarter cents the square yard, at least, on all cottons; and this circumstance gave it the name of a minimum duty. When it was proposed to strike this provision from the bill, the eloquence of Lowndes, and the votes of South Carolina, retained it. The minimum, therefore, whatever its character, is a child of South Carolina; and if it require defence, South Carolina should defend it. Will she do so? No, Mr. Speaker; even here, on the spot of its birth, South Carolina brands, with most opprobrious epithets, her own offspring. And yet, sir, is not the act entitled to defence? I think it is. And, however much I may regret that it should have fallen to so feeble hands, I will defend this act of South Carolina, even against herself.

Sir, I know something of the motives which influenced South Carolina in this measure in 1816. A highly esteemed and intimate friend, now no more, who passed a great part of that session of Congress at Washington, and who was greatly influential in bringing different views and conflicting interests to unite in this measure, explained to me, on his return, the views under which a majority of the delegation of South Carolina were induced to vote for that bill. South Carolina was then, as now, a cotton-growing State; cotton was her great staple. The power-loom had been brought into complete and successful operation in this country. The whole consumption of the country in the article of coarse cottons, was, nevertheless, at that time, supplied by the Indian manufacture from Bengal. South Carolina was assured, and made to believe, that, under the protection of this minimum, imposing a specific duty of six and a quarter cents the square yard on these inferior cottons, the cotton of our own production might be successfully manufactured under the influence of this powerful instrument, in our own country, and thus made to supersede and shut out the cottons then in use, the product both of a foreign manufacture and of a foreign soil.

In supporting this measure, therefore, whatever other motives may have influenced her, South Carolina was following the dictates of an enlightened self-interest—nay, more, sir, of an enlightened and enlarged patriotism. What bond of union could be imagined, better calculated to bind together distant parts of the Union, than the ties of a common interest, growing out of the mutual relation of producer of the raw material and the manufacturer of it? And again, of manufacturer and consumer?

Now, sir, what has been the result? Have the anticipations thus held out to South Carolina been realized? On this point I may speak with some confidence. With the gentleman to whom I have alluded, I had been associated as one of the original proprietors of the establishment at Waltham, where the power-loom was first put in operation in 1815; and from that period to the present I have been intimately acquainted with the progress of the cotton manufacture. Not only, sir, have the original calculations been fully realized, but the manu-

facture has been extended to a degree which it would have been thought altogether visionary to have anticipated. The original idea extended only to the manufacture of coarse cottons, to take the place of those imported from India. Not only were these excluded almost immediately, but, under the influence of a small extension of the minimum in 1824, and again in 1828, by each of which an additional duty of one cent and a quarter the square yard was added to that imposed in 1816, the manufacture has been carried up into the finer and higher branches, to an extent and with a rapidity which I will venture to say has no parallel in the whole history of commerce. By the most moderate estimate, and one which I believe entirely within the truth, the present consumption of cotton in our own manufacture is estimated at 60,000,000 pounds. This is more than one-half the entire quantity of cotton manufactured in Great Britain, in 1816, the period of establishing the first minimum by our law—the average of five years, from 1816 to 1820, being stated by Mr. Huskisson as 127,000,000 pounds only. It amounts to one-fifth part of our whole production, and bears the proportion of two-fifths of the entire manufacture of Great Britain from American cotton. At the same time, it is at the present moment extending itself with an energy, and to an extent, never before witnessed.

Not only, Mr. Speaker, has it furnished our entire consumption in all the finer and more expensive branches of the manufacture, and introduced new fabrics into use, as negro cotton, and cotton ducks, which are rapidly taking the place of the foreign articles manufactured from linen and hemp; but it has furnished a very considerable export in the article of coarse cottons.

In this view the manufacture assumes additional importance, as destined to furnish a very important branch of our foreign trade. I am aware, sir, that it is a prevailing opinion that it is impossible for us to manufacture any description of cottons on such terms as to meet the fabrics of Great Britain in foreign markets. On this point I wish to be explicit, and I avail myself of the present opportunity to state to the House that I am prepared to maintain on this floor the position, not as matter of opinion merely, but as a well-ascertained fact, that the American manufacturer can convert a pound of American cotton into the coarse fabrics, suited to exportation, for a less amount of money than the British manufacturer can do it. In other words, that a pound weight or other given quantity of these fabrics can be produced for a less amount of money in this country than it can in Great Britain, made from the same materials. I am perfectly aware that, by the substitution of the cheaper Bengal cotton, and by working up a portion of the waste of their mills, the British manufacturer can produce a fabric apparently cheaper than our own; but there is an inherent want of tenacity in the manufacture, which soon reveals itself to the consumer, even amongst the rudest people: the consequence is a decided preference for the American fabrics, and an increasing demand for these goods for exportation, which has only been checked by some advance of price, which has taken place during the past year, in the expansion of a universal prosperity. This brings me to notice a remark of the gentleman from New York, (Mr. CAMBRELENG,) on the enormous profits of the manufacturers, I believe he expressed a wish for information in relation to their enormous profits. It is certainly true, that after a most severe and trying depression during the years 1829 and 1830, the manufacturers have shared in the universal reaction of 1831; but not in a greater, if so great a degree as other branches of trade. I should consider it a high estimate of the profits of the most flourishing establishments, to rate them at twenty per cent. for the year, and probably but a small proportion approach very near to it. This is certainly a high rate of profit, but not greater than that realized by the navigating interest. Such have been the profits in this last department of trade, that, during a considerable part of the year, every new ship which touched the water, would command a profit of twenty-five per cent. over the cost of building, the work of only a few months. But, Mr. Speaker, what has been the consequence of this increase in the profits of manufacturing? An unprecedented impulse of capital into this branch of business. If the profits are now too great, there can be no fear but they will soon be reduced, under the existing spirit of competition, to a proper level, if not below it.

Let us now advert to the effect of this manufacture on prices. I have before me a scale of prices for every year, taken from the actual sales of the same identical article of cotton manufactured by the Waltham Company from 1816 to 1829. I will only give the following extracts: The article which in 1816 sold for thirty cents the square yard, sold, in 1819, at twenty-one cents; in 1823, seventeen cents; 1826, thirteen cents; in 1829, nine and even eight a half cents. The last price was not one giving a remunerative profit, and the manufacture was abandoned for a finer fabric; the same article may now be worth ten or ten and a half cents.

Now, sir, with this knowledge of this particular branch of manufacture, it will readily be believed that I am sincere in the expression, not of a perfect willingness, but of a strong desire, that this House should possess itself of the most full and complete information in relation to the subject of manufactures. I invite the fullest inquiry. I court it, and pledge myself to afford any assistance in my power toward the satisfaction of every inquiry, and the obtaining of the most complete information.

And I do this, because, when the facts which I have stated are in possession of this House, I shall call upon South Carolina to say whether,

under these circumstances, she is prepared to break down or cripple any part of this manufacture, which she has done so much to bring into existence, and in whose prosperity I believe her to be deeply interested. I shall ask her to pause before she decides to indulge the gentleman from New York in the experiment whether goods made from Bengal cotton are not more economical for the poor, for whom he feels so great an interest. In my humble opinion, the minimum duty is entitled to a good word from South Carolina. I do not despair of having it. As to the resolution offered by the gentleman from Virginia, my objection to it is, that it presents no specific object of inquiry—nothing to lead to any practical result. I read it over several times without being able to ascertain the object; it seemed to require some calculations as to the amount of the minimum duties per cent. on any supposable cost; this is a matter of easy calculation, which any person can make for himself; it is simply a question in the rule of three, as, for instance, the minimum duty on a square yard of cotton is eight and three-fourths cents. Suppose a square yard of cotton should cost one cent, what would the duty amount to per cent.? Answer, eight hundred and seventy-five per cent., and so through the whole scale. Now, sir, if the gentleman chooses to have these minimums calculated for us, as I now understand he does, why, be it so with all my heart. I can have no objection to his presenting them to us under as many phases as the census assumed in the hands of the very ingenious gentleman who has calculated it for us with so much labor. But I cannot for the life of me perceive any practical result to come of it.

As to which of the committees the inquiry should go, so far as this calculation is concerned, it must be of very little importance; but, suppose it intended to apply it practically to the comparative prices of goods manufactured here, or imported from abroad; there can be no question that, as a matter of propriety, it ought to go to the Committee on Manufactures. The theory of this House, I take to be, that the standing committees are supposed to concentrate the highest degree of information in the House on the particular subjects on which they are appointed. The Committee on Manufactures, therefore, are presumed to know, or have the means of ascertaining, all which the manufacturers themselves know. Now, sir, I cannot agree with the gentleman from New York, the chairman of the Committee on Commerce, that the Committee on Manufactures cannot be supposed to know the cost in England or the charges of importation on those articles coming in competition with our own manufactures, so well as the Committee on Commerce. On the contrary, the first inquiry which a manufacturer makes when he sets about manufacturing an article for the home market, in which he is to come in competition with an imported article, is, what is the original cost of the article with which he proposes to compete? what are the charges of importation, and what the protecting duties? These form the foundation on which he decides whether or not to commence the manufacture. So, more especially, in reference to those manufactures which are intended for foreign markets, where they are to come in direct competition with the manufactures of another country; does the gentleman suppose that any rational man would erect a cotton mill to manufacture goods for exportation, without ascertaining precisely what such goods could be furnished for from Manchester? No, sir, I know of many such mills now erecting; in fact, I am interested in some of them myself, and I can assure that gentleman the parties have not proceeded without fully satisfying these inquiries.

Mr. MCDUFFIE said the observations of the gentleman who had just taken his seat, upon the origin of the system of minimum duties, and the agency of the representatives of South Carolina in establishing that system, called for a few remarks. He had determined not to enter upon the subject of the present tariff until it was regularly before the House. As to the origin of that system in 1816, he was glad it had been introduced by the gentleman from Massachusetts. It made it his duty, as it clearly was in his power to vindicate the representatives of South Carolina from that unjust and ungenerous aspersion that had been elsewhere brought against them. He knew it had been said, and was here repeated, that the State of South Carolina, now so clamorous against the tariff, had the distinguished honor of first originating that system; and that South Carolina, and she alone, was responsible for the system and all its evils. Sir, what are the facts? In 1816, at the close of the war in which our country expended so much money, and gained so much honor, and in which it was the pride and glory of the State of South Carolina, both on this floor and elsewhere, to take a leading and distinguished part against the common enemies of our country, her representatives in this House entered upon the business of fixing the revenues of our peace establishment. A large debt had been accumulated by the expenses of the war. What was presented to them? The double question of the war taxes and the public debt. Before that time there had been what was called double duties and the war taxes. There was no question before them of protecting duties. The question was—to what point shall the duties be reduced to relieve the burdens of the Treasury and the burdens of the people? What would have been our situation at this time had these duties been permitted to remain as they were then fixed? Sir, the questions which now distract our country would never had been heard of. What was done? It was provided that those articles which had before paid twenty-seven and thirty-three per cent., should, after that time, pay only twenty-five per cent. Did the act stop there? Did it vindicate the

policy that the protecting duties were to progressively increase? No: it provided, that these duties of twenty-five per cent. should, after a certain period, go down to twenty per cent. Had they been permitted to remain there they never would have been disturbed by the complaints of South Carolina. The act of 1816 provided for a reduction of duties, assuring that prices would go down after the world became settled. Yet we are now told that, because the representatives of South Carolina took a leading part in that reduction of the duties, we are now bound to increase them. The policy of the act was to reduce them to twenty per cent.; and, after the payment of the national debt, to ten per cent. The gentleman from Massachusetts gives the State of South Carolina credit for a kind of interested sagacity on that occasion, which she utterly disclaims. She had no such sagacity. It is unjust and illiberal, in the last degree, to set down her patriotic sacrifice on that occasion as a miserable offering at the shrine of avarice. The whole was transacted in the face of the world. The arguments used in this House, when the act was passed, are now extant. Look into the records of the proceedings, and see if a word was uttered in favor of that act, on the ground assumed by the gentleman. The act provided for a reduction of the revenue duties. The suspension of a longer commerce, occasioned by the war, had given an artificial protection to those manufactures which were established during the war. The citizens of Massachusetts, who had resolved that it was unbecoming a moral and religious people to rejoice at the victories achieved by the courage of our countrymen—who spurned and frowned at those who had lent their money to the Government—they had embarked their capital, which they refused to Government to assist in providing for the common safety, in manufactures, with a view to profit. Sir, on that occasion a most generous and forgiving spirit was manifested towards them. What was the question under which the minimum spoken of was established? It was, will you, by suddenly withdrawing all protection, ruin these men? Sir, utterly as I detest the system, I should have done the same. This protection was asked under circumstances, and given upon principles, which never should be thrown at the State of South Carolina as a reproach. The question was, whether the manufacturers who had made investments during the war, should be saved or ruined. A temporary provision was made by the terms of the act in order to save them. That act in a few years discharged its duties. But speculators embarked in the business—adventurers, who had no interest in manufactories during the war. Is it not monstrous to say that South Carolina is bound to protect them? This is like the constitutional argument, when gentlemen say that, in 1790, Congress laid a duty of five per cent., and a tariff is a tariff. If this is logic, we are certainly responsible for the tariff of 1816. We were then willing the duties should be gradually reduced to save the manufacturers from ruin. We are now willing to take the same course. If we propose present duties of thirty per cent. to be gradually reduced to twenty-five, twenty, fifteen, and twelve and a half per cent., shall we fifteen years hence, be held up to the public as authors of a duty of thirty per cent.? Since he was up, he would say one word as to the minimum itself. When that was fixed in 1816 at twenty-five cents, that was the known price of common India cottons, as he had been informed by a colleague of the gentleman from Massachusetts. The duty was then specific. But we have since gone on increasing the duty while the price has been continually falling. He regretted that he was driven to say a single word on the subject before it came properly before the House. He was compelled to do it in order to refute a calumny which had been brought against the State of South Carolina, in another place, by an individual who knew better at the time, and which had now been repeated on this floor.

Mr. HOFFMAN rose, but yielded the floor to

Mr. APPLETON, for the purpose of explanation; who said he had not imputed avaricious motives to the State of South Carolina, but enlightened interest. That the promotion of the consumption of their cotton was a leading motive, he could not doubt, having been so informed by the late Francis C. Lowell, of Boston, who was here at the time the bill passed.

It was moved that the House now proceed to the orders of the day; which was lost—yeas 69, nays 90.

Mr. HOFFMAN said he happened to be one of those who, in 1828, had supported the tariff, now the subject of so much praise and of so much blame. Whether that support was wise or foolish, he thought he knew the objects of the law. The object of the minimums was to exclude importation. He thought the preamble to the resolution did not misstate the objects of the law. The resolution called for information as to its operation. He wished for that information. Some said the duties have caused low prices, others said they had not; he wished to know the facts. Nothing is got by resistance to truth, by attempting to shut out light. The gentleman from Massachusetts (Mr. DAVIS) proposes to strike out the definite inquiry contained in this resolution, and substitute a general inquiry. He thought this was unjust to the gentleman who made the inquiry: it was, besides, altogether indiscreet in those who were desirous to support the tariff, to smother such an inquiry. The amendment had that effect. What, if inquiry was proposed to be made into a certain action of a particular individual, a gentleman comes forward and proposes to amend that by inquiring into all the actions of every individual. That must be the object of such an amendment. He hoped no cover would be given to the charge that this system was to be defended by the concealment of truth. It

was well known that the nominal, the office value of goods was very different from their real value. This was a defect in our Treasury reports that he was anxious to see remedied. Another point had been alluded to—the evasions of the duties. If the enemies of the system desired a conclusive, an unanswerable argument against its operation, it certainly was this very argument, that it introduced a mass of smuggling that could not be repressed. He did not credit the statements that had been made on that head. One great reason of his disbelief was the great disparity between the value of goods in Canada and England and here. If smuggling had been carried on so extensively, it would have had a tendency to equalize the value. But he was anxious to have the facts; he would give the committee power to send for persons and papers, and investigate all these matters fully under oath. This House might then have data more authentic than statements made on one side and denied on the other.

Mr. DAVIS said he would not be drawn into a discussion of the general question by any provocation whatever. He felt it his duty, however, to make some remarks upon the amendment he had offered. It was said to violate the courtesies of the House. What was the fact? The gentleman from Virginia asks for information. He (Mr. D.) proposed an amendment, carrying the inquiry further. Had he lifted his hands against the inquiry? He had been charged with smothering inquiry. He repelled the charge. Let gentlemen look at the amendment. Does that smother inquiry? Or is it the gentlemen who complain that the inquiry is too large, that it calls for too much information, who smother inquiry? Is it the common practice of this House, when a resolution for inquiring into one side of a question is offered, to make an amendment to bring out both sides, to cover the whole ground? He said he did not wish to pursue the matter. He did not hold himself responsible for this protracted debate, though he did not think it altogether profitless. He wished the question settled whether they were to have information upon only one side of the question: those who so wished would vote against his amendment; those who wished to see the whole subject embodied would vote in favor of it.

Mr. WILDE said, as it was obvious that the House was willing this debate should proceed, he would claim their attention for a few minutes. He had regretted the resolution, originally offered by the gentleman from Virginia, had not been adopted without debate, as were the resolutions offered by the respective chairmen of the Committee on Manufactures and the Committee of Ways and Means. He regretted that any incidental discussion should have a tendency to lessen the forbearance and conciliatory spirit with which this most vexatious and dangerous of all the subjects offered to the consideration of the House ought to be approached. He had been surprised at the explanation given by the gentleman from Massachusetts, (Mr. DAVIS,) to the object of his amendment. It was a well-known branch of legislative tactics, to offer an amendment for the purpose of overloading and crushing an inquiry. If the object of inquiry was the same, why offer the amendment? If it was different, why not propose it as a distinct and substantive proposition? That the subject of the original resolution was one upon which information was necessary, there had recently occurred an illustration within his own knowledge. He had not been able, by any inquiries at the department, or of gentlemen, to ascertain the price of the freight of a ton of bar iron from Liverpool to New York. He should not have now risen, had he not been called up by an allusion to a name for which he cherished the highest respect and the fondest affection. He was in this House, in 1816, when the original tariff law passed. There was no member in the House whose opinions received so much respect and attention as those of William Lowndes. He was admitted to be one of the first statesmen this country had ever produced. That man was no friend to high duties. The bill reported on that occasion provided for duties at twenty-five per cent., to be reduced at a certain period to twenty per cent. When his colleague, who was now a member of the other House, moved to strike out the twenty-five per cent., leaving the rate of duty at twenty per cent., the vote of William Lowndes was recorded in the affirmative. When it was proposed, on motion of the gentleman from Virginia, to strike out the minimum, the Southern votes were in the affirmative. The duties established by that act were entirely on the ground of revenue. The war, then just over, had left the country deeply in debt. The duties were retained at that extent for the purposes of revenue—with another view, that they might incidentally protect the establishments that had grown out of the war. The motive for establishing the minimum was, that we had not only come out of the war with a heavy debt, but with a depreciated currency. The difference between the currency of Baltimore and Boston was something like twenty-five per cent. The exportation of specie to India for the purchase of coarse cottons was represented as one great obstacle to the resumption of specie payments by the banks. This minimum was intended to affect the coarse cottons of India with a view to prevent the exportation of specie. There was then great doubt, if this measure was not adopted, whether our banks would be able to resume specie payments. The Bank of England did not at that time pay specie. It was intended to operate entirely on the drain of specie to India. We had not then arrived at the doctrine that specie went out of the country simply because it had come in. If the discussions on this subject were conducted with care, circumspection, and full information, there would be no danger of any imposition upon the good sense of the House. He was

satisfied that no facts would escape the vigilance of gentlemen on both sides of the question.

Mr. CARSON regretted that so much debate had arisen upon a resolution of this character. He had risen to notice a single statement of the gentleman from Massachusetts, (Mr. APPLETON,) which, from his full and intimate knowledge of the subject, must be taken as correct, and which he thought put the whole question at rest. That gentleman had stated, and it was not to be doubted, as he was a manufacturer, that cotton goods could be manufactured cheaper in this country than in England.

Mr. APPLETON said his statement was, that raw cotton could be converted into cloth in this country for less money than in England.

Mr. CARSON said, if that is true, why, in the name of reason and common sense, do you continue the duty? It is not needed for revenue, it is not required for protection; for here one of the most respectable manufacturers in the country says, we can make cloth cheaper than it can be made in England. Is it surprising that the South object to it as a bounty on manufactures? He would make the inquiry attributed, in the public papers, to the principal leader of the manufacturing interest in the other House, on the proposition to divide the surplus revenue among the several States—where is your warrant in the constitution? Where is the warrant to impose a tax on the people, as a bounty to the manufacturers, when they boldly state on this floor that they can produce these articles cheaper than England, and meet her competition in any foreign market? That gentleman had communicated another secret for the information of the House: that he had summoned the manufacturers to this place, because their interests were to be attacked. They were, no doubt, to be introduced as witnesses, to prove the facts in which they were directly and deeply interested. Sir, shall the testimony of interested witnesses, given at the instance of their fellow-manufacturers on this floor, be brought here to settle the rights of the people of this nation, in the most important of all questions affecting their rights, while such testimony would not be hearkened to in a court of justice? May we not ask this question, when gentlemen say there is no necessity of relieving us from burdens which have ground us to powder? We ask it of their generosity, if they have any, to loose their hold; we adjure them not to continue any longer a system which makes them the receivers and us the payers, since by their own statement, there is no longer, upon public grounds, any occasion or apology for its continuance.

Mr. CAMBRELENG, having been appealed to by the gentleman from Massachusetts, (Mr. APPLETON,) to corroborate his statement of the price of East India cottons in 1816, said, he had no particular knowledge of that trade at that period; but he felt assured that that gentleman would not conscientiously make any statement not strictly correct. He could, however, give other information as to prices upon which he presumed the minimum of 1816 was founded; and if gentlemen would assume the same basis now, however objectionable he considered this minimum system to be in all respects, he should be willing to establish the same rate of duty at this time. It was well known that the price of common white cottons, manufactured in the United States, and entering into the general consumption of the country, did not vary far from twenty-five cents: these cottons were conceived to be of the lowest price. And if Congress, in assuming that as the minimum price of cottons, placed it too high, it was because they were deceived by those from whom they received the information. They were intended to establish an artificial and arbitrary minimum. The duty contemplated was twenty-five per cent. on an actual minimum value. But what was the practical operation of this minimum now? The same, nay, a better article could be bought in England for seven and a half cents, while the minimum had been augmented from twenty-five to thirty-five cents, and it was now arbitrarily valued at the latter price. This was the case with British shirtings. He had been informed by one of the most extensive and worthy importers of the country, an American, too, as respectable as the gentleman from Massachusetts himself, that these cottons were actually imported now, not for consumption, but for exportation. They would be imported for consumption, but for the enormous duty levied under the cover of a minimum of eight cents on a value of seven and a half, making fifteen and a half; while a corresponding article of American fabric was sold at fifteen to fifteen and a half cents. Thus were British shirtings excluded by those wise, just, and patriotic laws which enable us to supply Mexico and North America with those very cottons, while we prohibit our own countrymen from consuming them. They come to our markets at half the price demanded for our own fabrics, and we prohibit their consumption lest we should diminish the dividends of our manufacturers. It was to explain the operation of these minimum duties that he wished the calculations called for by the resolution of the gentleman from Virginia.

The question was then decided—yeas 99, nays 82.

MONDAY, January 23.

Sandusky Road.

Mr. COOKE, of Ohio, moved the following resolution:

Resolved, That the Committee on Internal Improvements be instructed to inquire into the expediency of making an appropriation in lands, for the purpose of laying out and constructing a road, to run southwardly from Lower Sandusky, in the State of Ohio, to the boundary line established by the treaty of Greenville, as stipulated by the treaty of Brownstown, between the United States and the

several Indian tribes northwest of the river Ohio; and according to the provisions of the act of Congress passed December 12, 1811; and that the preamble and resolutions of the General Assembly of the State of Ohio, heretofore presented to Congress, in reference to that subject, be referred to the said Committee on Internal Improvements.

The question was put and the resolution adopted.

The Tariff—Memorial of South Carolina.

Mr. DRAYTON, of South Carolina, presented the following memorial:

"The memorial of the members of the Legislature of the State of South Carolina, opposed to nullification, showeth:

"That they are exceedingly aggrieved by the laws of the United States, imposing high duties on foreign merchandise for the protection of manufactures; the evils under which South Carolina is suffering are obvious and alarming; the great depreciation of cotton, the chief staple of her soil, has reduced the profits to which the planters have long been accustomed, to such a degree, that the culture, yielding no longer an adequate compensation for their labor, is continued merely from necessity; at the same time her citizens are exorbitantly taxed on all the articles of foreign growth or production that enter into their consumption. If other causes conspire to reduce the income of her citizens, it is the tariff alone which denies them the right of converting that reduced income into such an amount of the necessaries or conveniences of life as would certainly be at their command under the revenue system of moderate duties. These difficulties, though great, might be tolerated, if the burden was equal; but they are greatly aggravated by the consideration that the benefits of the tariff are confined to the manufacturing States, and that South Carolina feels with severity the weight of the protecting system, but receives no part of the compensation.

"It is well known to Congress, that the policy, the justice, and the constitutionality of the present system of high protecting duties have been strenuously contested and denied. The favorers of these regulations may have thought that the opposition would become less violent, as time would render the system more familiar to the people. But if such expectations were ever entertained, it is time they should be abandoned. The progress of discontent, so far from diminishing, has become more alarming from year to year, as a continuance of the system has led to a further development of public opinion.

"It should not be a matter of wonder that all the evils which have accompanied an obnoxious course of policy, are ascribed exclusively to its agency. Your memorialists, who fully concur with their fellow-citizens in their opposition to the tariff, are of that party who regard nullification as utterly unconstitutional. They disclaim altogether the language of violence and intimidation; but they insist it is the duty of Government to abstain from such legislation as is not in accordance with the spirit and opinions of the people. It is not enough that laws should be just and reasonable in themselves; they ought to conform to public opinion, and give satisfaction to the community.

"The objections to the restrictive system are of the gravest character, and the sense of oppression and injustice which it has excited, are widely diffused and deeply felt.

"The common good requires that it should not be persevered in, against the judgment and in opposition to the sentiments of so large a minority. In all Governments this consideration is entitled to great respect, particularly in popular Governments; but in none so much as our own. The constitution itself was founded in compromise, and the vital principle of the Union consists in the spirit of mutual concession.

"The speedy extinguishment of the public debt furnishes an opportunity of reducing the public burdens which your memorialists confidently hope will be improved by the wisdom of Congress. They submit this momentous subject to your enlightened wisdom and regard for our common country, in the earnest hope that by reducing the duties to a scale commensurate with the necessary revenue of the United States, and adjusting them with a due regard to the interests of all, you will remove the unhappy differences that now prevail, and establish the peace and happiness of the country on a permanent basis."

Mr. DRAYTON moved that the memorial be referred to the Committee of Ways and Means.

Mr. DENNY moved to amend the motion by inserting, in lieu of the Committee of Ways and Means, the Committee on Manufactures.

Mr. DRAYTON presented in a succinct manner his reasons for wishing the memorial referred to the Committee of Ways and Means. The subject to which it referred was the revenue of the country. It prayed that the existing duties might be so far reduced as to be commensurate with the legitimate object for which it was collected. If this was not a question for the Committee on Finance, he did not know what could be so considered. With the general theory of revenue the Committee on Manufactures had no concern. The avowed object of that committee was to reduce the amount of importation, and consequently the amount of revenue; but if that committee was to be suffered to proceed untrammelled, and uncounteracted by the action of any other of the committees of the House, the result might be that the revenue should so far be reduced as to be inadequate to meet the demands of the public service. The Committee of Ways and Means possessed experience on the subject of the revenue, and could best decide how far the taxes on any given article might with safety be enlarged or diminished. It was, in every possible view, the appropriate committee for the consideration of such a memorial as he had had the honor to submit to the House.

Mr. DENNY, of Pennsylvania, said that it was far from his intention to renew the debate of yesterday. He had been led to believe that the people of South Carolina complained of the existing tariff laws as operating oppressively. As far as he understood the particular subject of their complaint, it was that duties were laid not merely for revenue, but for protection. Such was the avowed object of our tariff law. If they complained of it, therefore, what they complained of was protection. To what com-

mittee, then, should a memorial on that subject be referred, but to that committee of the House which had the general subject of the protection of our domestic industry, more peculiarly under its charge? It was true that the Committee of Ways and Means had the subject of revenue particularly confided to them, but the question in that memorial was not a mere question of revenue. It prayed that the tariff might be so diminished as to reduce the revenue by taking away the protection at present extended to our manufactures. The subject, therefore, pertained to the Committee of Manufactures.

Mr. SPEIGHT, of North Carolina, said it was very extraordinary that no proposition on the subject of duties could be brought into the House, but it must immediately be seized upon and slaughtered by being referred to the Committee on Manufactures. Whatever it was, or wherever it came from, it was seized on with avidity, and given to that committee, who, according to their own ideas, had exclusive jurisdiction over the whole subject. What was the prayer of this petition? That the revenue might be reduced until it should be not more than sufficient to meet the actual wants of the Government. Was this not a subject belonging to the Committee of Ways and Means? That committee had the exclusive care of the revenue of the country. But the gentleman said that it must go to the Committee on Manufactures, because it asked for a reduction of the tariff. What, sir, said Mr. S., may not South Carolina, when she feels the grinding effect of the tariff policy, be permitted to have her voice heard?—when the planters of the South are down, and the manufacturer of the North has his foot upon their necks, and his hand in their pockets, be suffered to send their complaints up to that House? Must the complaints of the oppressed be sent to a committee avowedly in favor of the policy that oppressed them? That memorial proceeded not from a company of manufacturers, but from the respectable people of South Carolina. Throughout that State, and he might add throughout the whole South, there existed on this subject but one opinion. The tariff was viewed with unutterable abhorrence and disgust. However they might differ on other subjects, there was but one uniform sentiment on this. Nor would they ever cease to oppose the law so long as it should continue in its present form. He hoped the gentleman from Pennsylvania would consent to withdraw his amendment; but if he should persist in it, Mr. S. would be obliged to call for the yeas and nays.

Mr. BRANCH, of North Carolina, observed that as he believed the object prayed for by the memorial to be pregnant with the best good of the country, he would submit two or three observations in reference to it; but not in a spirit of crimination. Far from it. It was not his purpose to charge any one with dishonestly or unjustly thrusting their hands into the pockets of the planters. He was actuated by no such spirit; but by a spirit of conciliation and of union, on which alone he believed the prosperity of the country to depend. Not that he believed the effects of the tariff to be any less injurious than they were represented to be. On the contrary, he believed the operation of that system was to exhaust the resources of the South day by day, and, should it be persisted in, they must sooner or later be compelled to take a step he shuddered to think of, or else to sink into ruin. Was it not important that the friends of the manufacturing interest should have a proper estimate of the real state of the clause? This memorial proceeded from a class of men every way entitled to the respectful notice of that House. The language of the memorial was calm and dispassionate. Yet it was not sycophantic. It held that just medium which he for himself was desirous of following. It was a submissive appeal to the Congress of the United States. And what was the proposal of the gentleman from Pittsburg? To send it to the Committee on Manufactures; when the Southern planter complained of the operation of a law intended to protect the manufacturer, his complaint was to be submitted to the manufacturers themselves, who were of all other persons the most deeply interested in perpetuating the system of which he complained. He would appeal to the gentleman from Pennsylvania himself to say whether the people of the South ought to feel satisfied with such a proposition. Were they not entitled at least to be heard by an impartial tribunal in a cause on which their most vital interests—on which, in fact, their all depended.

Mr. B. said his object was very far from being to excite unpleasant feelings. He trusted, that in the hurried observations he had submitted, there had been nothing to produce such an effect. His object had been to call out the generous feelings—no—the just feelings of the manufacturing interest. He asked for the memorialists no more than they were justly entitled to. They asked relief in respectful terms. Would the gentleman consider it right, in his own case, to be sent for judgment to an interested tribunal? North Carolina had asked nothing on this subject, but she was deeply interested in the adjustment it should receive. He believed, as verily as he believed any thing in the world, that on the result of their deliberations on that subject hung suspended all that was dear to the country. We forewarn gentlemen to beware. Let them look in time—the spirit which had slumbered so long, would at length be called into action. He concluded by expressing his hope that Congress would extend to the people of the South that relief to which they believed themselves justly entitled.

Mr. MITCHELL, of South Carolina, said that he felt personally very indifferent to which of the committees this memorial should be referred; but, for the reasons which had been already stated, he could not but consider it as very improper that it should be sent to the Committee on Manufactures. He had been

greatly astonished at some of the remarks of the gentleman from Pennsylvania, (Mr. DENNY.) He thought that the tariff had been professedly enacted for revenue; he had been in that House when the tariff of 1828 was enacted, and had heard a proposal made to alter its title, by calling it a bill for the protection of manufactures, but such a proposal had been scouted; the friends of the law denied that it was for protection, and said it was for revenue only. He professed to have the utmost confidence in the Committee on Manufactures, who he did not doubt would perform their duty in the case, but he could not but consider the other course as every way more proper.

Mr. BURGES said that he did not rise to oppose the reference of this memorial to the Committee of Ways and Means, but to express his hope that the gentleman who had moved the amendment (Mr. DENNY) would withdraw his motion. Mr. B. was willing that those who said they were aggrieved, should not only have what they wanted, if they were entitled to it, but that they should have it from the hands at which they craved it. He did not think the House could ever be induced to believe that the tariff law was oppressive and ruinous in its operation in a large portion of the Union, without having the evidence submitted to them which should go to prove that such an impression was something more than mere delusion. He had no belief whatever that the allegation in the memorial could, by any possibility, be sustained to the satisfaction of the deliberate judgment of any human being. He believed the whole representation there made as neither more nor less than a delusion; yet he was disposed to treat it with respect, so much so that he was desirous it should pass under that examination which the gentleman who presented the paper had himself pointed out; and having thus satisfied them of the willingness of that House to treat their representations in a fair and candid manner, he would leave them no cause of complaint on that score. As to the consequences which had been threatened, they might come, but he did not believe that they ever would. He never would believe that the people of the South were prepared to throw up their glorious constitution, and a Union in which they were so deeply interested, on the ground of any delusive statement, such as that in the memorial. He would not believe that the South would, at this time, or at any future time, wage war against the North for the sake of a law which had been fairly enacted by the majority, and the effect of which was, while it gave one portion of the country a market at home, to give to the other a market abroad and at home too.

Mr. CARSON said that the South ought doubtless to feel herself much indebted to the eloquent and learned gentleman from Rhode Island, for the respect he had shown to their delusion. It was possible that they might be in a delusion, but he would put it to the good sense of that interested judge, whether delusion or self-interest was the most likely to lead men astray. There was much truth and wisdom in an expression used by the father of the distinguished gentleman from Massachusetts, (Mr. ADAMS,) who had declared interest to be the main spring of human action; he thought that maxim was abundantly exemplified in that Hall. With all the respect professed by the gentleman from Rhode Island for the delusion of the South, he might be permitted to say that it was the interest of the manufacturers which caused their delusion. It was not to be presumed that the tax payer was more likely to be deluded than the tax receiver. They of the South were the tax payers—nothing could be more plain to all disinterested persons than that position—but persons personally interested would not so decide. The House had daily too many proofs to the contrary. He made no charge against the patriotism of gentlemen, although they seemed to think it patriotic to drain money from one part of the country to pour it into the pockets of another. The people of the South had often been chidden as persons complaining without reason, but he had hoped that they would at last meet with a fair and respectful hearing, and he trusted they would be spared the reproach of delusion, in however respectful a manner the reproach had been conveyed.

Mr. EVERETT observed that the House, on Saturday last, had sustained a call for the previous question in reference to the very topic on which they seemed now about to embark in discussion, and he had understood their seconding the call to proceed from an impression that it was inexpedient to discuss at this time a great and momentous subject which was soon to come regularly before the House. Every reason that influenced the decision on Saturday, applied to-day with all its force, and should the debate be persisted in, it would at least lead to nothing. He would appeal to gentlemen on both sides of the House to say what great good they could obtain by carrying, or what great evil they could suffer from losing, the point now contended for. The whole subject of the tariff had in one of its aspects been very fully referred to the Committee on Manufactures, and as fully in another view of it to the Committee of Ways and Means. Why should they continue a discussion by which neither side would be advantaged the weight of a straw? He thought the subject of the memorial in its most important aspect ought properly to go to the Committee on Manufactures, while, as it also involved a great question of finance, it might without impropriety be sent to the Committee of Ways and Means. As one friendly to the interest of the manufacturers, he was willing it should take the latter direction. The petition proceeded from a source which he was always inclined to regard with the greatest respect. It came from the Legislature of one of the States, and he was

willing that the honorable gentleman who had been the organ of its presentation to that House, should in its reference choose his own committee. He could not see that any interest would be in the slightest degree endangered by such a course, and he hoped the gentleman from Pennsylvania would have the goodness to withdraw the motion he had made. He was desirous the House might save its strength until the great question at issue should be discussed upon its merits, that it would save its feelings from the irritation produced by such premature sparring, and that gentlemen on both sides would save their facts and arguments from being thus frittered away in disputes which led to nothing.

Mr. DENNY said that, when he made the motion to refer the memorial to the Committee on Manufactures, he had not anticipated any discussion, much less that it would have elicited remarks of such a character as those which had proceeded from the gentleman from North Carolina, (Mr. BRANCH.) It seemed that the subject of protecting our own industry could not be presented in any form, but there must be an attempt to alarm the House, and the flag of disunion must be unfolded to their view. He trusted that gentlemen would be permitted to decide questions in that House, fairly and deliberately, and that addresses to their fears would not thus be indulged in. After the remarks which had fallen from the friends of the protecting system, he was disposed to withdraw the motion he had made, but he trusted that, as much had been said of the severe distress experienced at the South, the House would receive on that subject not merely allegations and declamations, but facts also. He should withdraw his amendment, but he wished the gentleman from North Carolina to understand that it was not from any regard to the language of menace.

Mr. BRANCH rose in explanation, and disavowed all such feelings as would have led him to language of menace. He had spoken under the embarrassment incidental to his situation, and might not have been as explicit as he desired to be. Far from any desire to menace gentlemen, he had aimed at calling into action only their generous and just feelings. He had endeavored to depict the fatal consequences which were likely to result from a perseverance in the present system. There was nothing which he believed more firmly; and all he desired was, that the gentleman should look at the subject in all its bearings, and meet it dispassionately. He was fully aware whom he addressed. He knew that he was speaking to men as independent and honorable in their feelings as any at the South; men who were not to be influenced by any appeal to their fears, but who could be moved only by calm and dispassionate reasoning.

The question being then put, the memorial was referred to the Committee of Ways and Means.

Minimum Duties.

The House resumed the consideration of the resolution moved by Mr. BOULDIN on the 27th December ult.; when

Mr. NUCKOLLS begged leave to modify the amendment proposed by him on Saturday, the 21st instant, to the amendment proposed by Mr. STEWART on the same day to the said resolution, so as that his said amendment read as follows:

"And, also, whether the prices of articles not protected in this country have not fallen in an equal or greater ratio; whether the protected articles have not fallen in price in Europe in an equal or greater ratio than in this country within the same period; and what they might now be purchased for, if the tariff were repealed."

The previous question having been demanded and seconded on Saturday last, it was accordingly put, viz: "Shall the main question be now put?" and passed in the affirmative—yeas 111, nays 78—thereby cutting off the pending amendments.

The main question was then accordingly put, viz: "Will the House agree to the said resolution?" which, as amended, is as follows:

"*Resolved*, That the Committee on Manufactures be instructed to inquire into, and report to this House, (if they possess the information,) the practical effect of the revenue laws upon the commerce, agriculture, and manufactures of this country, designating the manner in which the sum upon which the duties are assessed is made up; and, also, the percentage assessed upon goods subject to the square yard duty, and whether any goods are prohibited by the amount of duties; also, whether frauds are not perpetrated in the importation of goods, and the revenue thereby reduced, and how such frauds may be suppressed; also, whether the statute value of the pound sterling ought not to be so modified as to conform to the actual value in the United States; and to accompany their report, if they shall make one, by the evidence upon which it shall be predicated."

And passed in the affirmative, by yeas 127—nays 59.

TUESDAY, January 24.

Colonization of Free Blacks.

The following resolution, moved some time since by Mr. JENIFER, of Maryland, came up for consideration:

Resolved, That a committee be appointed to inquire into the expediency of making an appropriation for the purpose of removing from the United States, and her territories, the free people of color, and colonizing them on the coast of Africa, or elsewhere.

Mr. THOMPSON, of Georgia, inquired of the Chair whether it would be in order to move the question whether the House would consider the resolution.

The SPEAKER replying in the negative,

Mr. ALEXANDER, of Virginia, moved to lay the resolution on the table; but withdrew his motion for a moment at the request of

Mr. EVERETT, of Massachusetts, who stated that the mover of the resolution had consented to its postponement on Monday last, at the request of two gentlemen who wished time to look into the subject; and he asked whether it was proper, under such circumstances, to lay it on the table.

Mr. ALEXANDER renewing his motion,

Mr. THOMPSON, of Georgia, demanded that the question be taken by yeas and nays; which was ordered, and resulted as follows—yeas 71, nays 104.

Mr. JENIFER said that, when the resolution had been submitted a few days since, and a motion made by a gentleman from North Carolina to postpone it for a week, he had understood that the object was to have it at that time considered by the House, more especially as one of the gentlemen who had wished the postponement had expressed his intention to move a substitute for an amendment. Mr. J. regretted, now, that it had not gone to a committee at that time, who would have presented the House with their views on the subject, and a statement of the facts in reference to it. He was aware that this was not the proper time to go, on a mere motion of reference, either into the constitutional question or the question of expediency, to which the resolution would naturally lead. The resolution asked for a mere inquiry into the expediency of making an appropriation of money for the colonization of the free people of color. When gentlemen looked around, and saw that question agitated with so much earnestness and anxiety, not only in the State he had the honor, in part, to represent, but in an adjoining State, which, next to Maryland, had the deepest stake in the question; when they observed that it was openly discussed in all its latitude in the Legislatures of both those States, it really seemed to him singular that any gentleman should be afraid of having it discussed in that Hall. It was equally strange, whether gentlemen came from slaveholding or from non-slaveholding States. Had it not been admitted in the Legislatures of the States that the presence of the free colored population was a great evil? And ought gentlemen to be afraid of investigating the means of being relieved from it? And how could gentlemen who came from non-slaveholding States, while they constantly maintained that the condition of the whole black population ought to be mitigated, consistently refuse even the inquiry how such a result might be effected? In looking at the constitution, a clause was found in the very preamble to that instrument, which seemed to show that its framers had cast an eye of paternal solicitude towards a state of things like the present.

One of the objects of our National Union was declared to be "the promotion of domestic tranquillity." Let him ask whether such a clause did not come home to the subject of the resolution. What was the present situation of Maryland in relation to this subject? He would speak of his own State, because he was most conversant with its condition. Mr. J. here referred to the numerous public meetings in various parts of that State, and to one especially held within his own district, at which certain resolutions had been adopted, which he read to the House. A resolution had also been introduced into the Maryland Senate, recommending an appropriation by Congress for colonizing the free colored population; and that, if this should be deemed by Congress unconstitutional, then the previous steps should be taken to get the constitution so amended as to permit it. Under circumstances like these, ought a resolution, such as that he had had the honor to present, to be refused even a consideration? He believed it accorded not only with the feeling existing in Maryland, but in all the other slaveholding States. If gentlemen had doubts on the constitutional question, or the question of expediency, why refuse to submit the subject to the consideration of a committee? Was this a question Congress ought to refuse to examine? or was this the time at which its consideration ought to be refused? If gentlemen of philanthropic sentiments and views ever intended to press the subject, he could say to them emphatically, "Now is the accepted time." The anxieties of society were roused to the subject. Mr. J. said he was the representative of a slaveholding State, and was, in addition, himself a slave owner. He had no fears as to the effect of stirring such a question, either on the safety of the Union, or of the slaveholding States; and both the free and the slave population were alike interested in the result. The effect of such a measure, if resolved on, would be beneficial to the slave; inasmuch as it was the presence and vicinity of this free colored population, which rendered it necessary to draw closer the bands of discipline over him. Would not gentlemen willingly be freed from such an evil? It was admitted on all hands that free blacks in the slave States were and must be among the most debased and wicked of the human race. They possessed no place which they could call their home. The law, indeed, recognized them as free persons; but were they so in fact and in truth? What had they in common with freemen besides mere existence? Did it not become American statesmen to take measures for the amelioration of their condition? The evil was one of the greatest, as well to themselves as to others, which could exist in any community; and it ought, if practicable, to be removed.

Mr. COKE, of Virginia, said that, on hearing the resolution read, he perceived its tendency went further than he had supposed when it had first been introduced, and he could not but say that he considered its introduction into the House as a great evil. The honorable gentleman who had moved it might be justified *in*

foro conscientiæ, having probably been urged on by the excitement existing in his own State, and knowing no means to allay it but the course he had pursued. Though he felt inclined to acquit the gentleman from that sin (for he could apply no lighter term) of introducing such a question at such a time, yet there were many considerations which ought to have led him to a different course. The gentleman had argued the constitutional question confessedly involved in the proposed measure, but had not touched the question of expediency, nor indeed said a single word on the real subject of the resolution. The gentleman might take his choice of either question; he was ready to meet the discussion whenever the gentleman should choose to enter upon it.

As to the constitutional question, did not everybody see that this Government possessed already more powers than it ever ought to have had? Was this a period for claiming to it yet more? A corps of topographical engineers had been appointed to march in advance of our armies in time of war; and that authority had been perverted in a manner to promote the purposes of gentlemen favorable to the scheme of internal improvement. Was that all? Did not the grasp of the Government extend itself in every direction? Was it not contended that, under the clause which gave Congress power to regulate commerce, Congress might do almost whatever it pleased to assume to be expedient? He asked, in the name of humanity, what right was possessed by that House to tear the free colored people from their relatives, and all the ties which bound them to their residence, and locate them in a land alien to all their feelings and affections? Was it humanity which led the steps of gentlemen in subjecting to certain punishment, and even to death itself, these very people?

But the gentleman from Maryland had asked whether Congress did not possess the power to make such an appropriation; and he had looked for an answer into the preamble of the constitution—that sacred instrument, whose provisions he desired neither to diminish nor enlarge; and there the gentleman had discovered that one of the purposes for which it had been framed was "to ensure domestic tranquillity." The gentleman might as well have inferred from that clause that Congress had power to interfere with the minutest regulations of the police of the States on the subject of the transportation of commodities, as that it possessed the power to transport the free people of color beyond the limits of the United States. But the gentleman desired that the constitutional question should be deferred until the House should have heard the report of a committee: well, he was willing to wait till then: but if the gentleman was disposed to argue the question at this time, he would find a sufficient number of gentlemen on that floor abundantly prepared to argue that question with success. The gentleman had been induced to move his resolution by motives of humanity: but would not humanity have pointed out some place to which those poor wandering Jews were to be sent? The only designation of their asylum, expressed in the resolution, was "Africa, or elsewhere." Great God! exclaimed Mr. C., are the terrors which prevail on this subject so wild that we must get rid of our free blacks at all cost and all hazard, both to them and to ourselves? Are gentlemen so completely under the dominion of nervous fears? I tell gentlemen that their fear is a mistaken one. And I appeal to the history of my own State in proof that there never has been one period in her past experience at which she had any thing to fear from her free black population, and no more from her slaves. For all acquaintance with the general subject, Mr. C. possessed the same advantages as the gentleman from Maryland; he was the representative of a slaveholding State, and himself the owner of slaves; and he slept with as much security in the midst of the slaves on his plantation, as if he had been himself a puffing director of a certain society. All that was needed to ensure the safety of a slave owner, was kindness and proper discipline. He could assure gentlemen that the slave, however low his condition, was not dead to the sentiment of gratitude. Virginia had been settled for two centuries, and how many insurrections had she witnessed? One in Southampton; and that originated, carried on, and terminated by the death of a religious fanatic, who, with all his efforts, had been able to get but thirty or forty followers. They had paid on the gibbet the forfeit of their crime, and there was an end of the affair. He had not the slightest apprehension of witnessing another.

The House went into Committee of the Whole, and took up the

Apportionment Bill.

Mr. WAYNE, of Georgia, took the floor in support of the amendment of Mr. HUBBARD, (to substitute forty-four for forty-eight,) and occupied it until a late hour; when he gave way for a motion to rise.

WEDNESDAY, January 25.

Apportionment Bill.

Mr. HOWARD, of Maryland, said he had an amendment which he felt constrained to offer, however reluctant to detain the committee. He then moved to strike out the 3d, and insert the 6th of March, in the bill; the effect of which amendment, if adopted, would be to give to the several States at the next Presidential election the weight they possess at present, and not that to which they will be entitled under the new census.

THURSDAY, January 26.

Apportionment Bill.

Mr. HOWARD said that, before calling the attention of the committee to that clause of the constitution, upon the true construction of which the decision of the present motion depended, there were one or two preliminary remarks that he wished to make, in justice to himself, and to the point he had brought forward for consideration. He wished to disavow, in the first place, any unfriendly feeling towards those rapidly increasing Western States that would be chiefly benefited by an increased number of the members of this House, and, of course, share most largely in the corresponding increase of electoral votes for President which the bill, in its present shape, would give them. It was not necessary to refer to the votes which he had given ever since he had the honor of a seat in this body, to manifest the interest which he took in their prosperity, and his willingness to promote it upon every occasion. The people of those States were identical with the people of the Atlantic border; and whatever might be the state of feeling at some far distant day, it was not to be supposed that any other than a common feeling of affection and interest would prevail when the original emigrants who settled that country had not yet passed away. Looking forward to a still closer connection than even now prevailed, the inhabitants on this side of the mountains were pushing forward works of improvement in every direction, to act hereafter as additional ligaments to bind together in tighter bonds of union these sections of our common country. In maintaining, therefore, the constitutional rights of the State which he had the honor, in part, to represent, and which she possessed in common with other States; in resisting a species of legislation which would put these our children into possession of the rights of their ancestors, which they would receive by inheritance in the ordinary course of things, but which they ought not to claim whilst that ancestor is alive and vigorous, he trusted that no one would accuse him of a desire to retard the advancement of those interesting and growing communities. He disclaimed every feeling of the kind.

What, then, is the question that presents itself? The second section of the second article of the constitution says: "Each State shall appoint, in such manner as the Legislature thereof may direct, a number of electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress."

What kind of title is here meant? The bill proposed is to go into effect on the 3d of March, 1833, and the appointment of electors is to be made in the fall of 1832. The act of 1792 declares that the number to be appointed shall be that to which the State shall be entitled on the day when the President, so to be elected, shall go into office, viz. 4th March. This bill, then becoming operative on the 3d March, will have been the law for one day, and thus the act of 1792 requires the adoption of the numbers to which the States shall have been entitled for that one day. It is somewhat singular, that although this bill is not to commence its binding force until the 3d March, 1833, yet, unless the amendment be adopted, it is called into a premature existence by virtue of an old act, and compelled to antedate itself nearly six months, and to become effective long before the period assigned by the House for its commencement. The States will have, during next fall, two titles to representation, one in possession, and the other in reversion. Which one of these does the constitution contemplate? That of which she is in the full, peaceable, and indisputable enjoyment, or that which is contingent and liable to be changed at the second session of this very Congress? It seems to me that the only intelligible guide is, for the State to look to the representation that she has at the time when she makes the appointment. Maryland, for example, has now nine members of this House, and will continue to have for fourteen months to come; but if the ratio of forty-eight thousand be adopted, of which the vote of yesterday seems decisive, she will, at a future day, be entitled only to eight. Is it a sufficient answer to her claim to nine votes in the electoral college for her representation here, to say, that because at some remote period she shall be curtailed to eight, therefore she shall not enjoy the influence which nine would give her up to the arrival of that distant day? Should a voter present himself at the polls to vote for a member of this House, who was ill of a mortal disease, would it be sufficient to tell him that he would be dead before the member elected could enter upon the duties of his office, and therefore he could not vote? or, taking the case of those States who are to gain in the representation, would it be sufficient to say to an inhabitant of Virginia, (where, I believe, they still require a freehold qualification,) who presented himself at the polls with a deed in his hand, which a friend had promised to execute at a future day, that his right of suffrage was perfect? No, sir, you can only look to the situation of the voter at the time when he gives his vote; and in the election of a President of this nation, the States, acting for their people, and through their colleges, are so many voters. What a singular spectacle will be presented when the representatives from New Hampshire, Massachusetts, Maryland, and Virginia, shall be called upon to witness the counting of the electoral votes! They will see an operation in political surgery performed by the severance of a limb from each of those States, and by means of some powerful cerate the limb will be restored to its place on the next day, and those very States walk into the Hall in full proportions, to exercise their legislative functions. By what authority do we legislate a

difference between the weight of a State in the executive and legislative branches of the Government of the Union? Is not the former as dear to her as the latter? Either the number of members upon this floor must be instantly curtailed, or the number of electoral votes correspond with those members, or there must be a difference between the influence of a State in the executive and legislative branches. I deny that any such difference exists—I deny that any State in this Union is more willing to part with her constitutional control over the one than over the other. What is the reason given for the proposed legislation? It is, that the President will come into power with a Congress elected upon the new apportionment, and, therefore, he ought to be so elected, also. This might have been a good reason for making the constitution different from what it is, but it is not sufficient to divest a State of the right which she has acquired by compromise in the confederacy. I contend that her representation, in all its branches, must exist until changed by a new apportionment. It is a succession of (to use a word coined either for or by this House) political minimums; the duty remains up to a certain point, and then changes at once. As long as her power remains, she has a right to exercise it; and if the selection of the individual who is to occupy the Presidential chair may possibly be determined by the admission or rejection of the right now in question, how can it more deeply affect the interests of the nation than laws which may be enacted to last for half a century? Maryland has now eleven votes out of two hundred and sixty-one; you propose to allow her ten out of two hundred and eighty-five, because the effect of her vote is to be felt for four years, and yet you continue, after such curtailment, to allow her nine votes in this House upon the passage of laws. Suppose, for example, (and I am almost afraid to use an illustration which may possibly, but which I hope will not be misunderstood,) that after you had witnessed her ten votes counted before you, reduced to ten, because the influence of the vote was to commence in two months thereafter, and be continued for four years, it should so happen that the charter of the Bank of the United States should be renewed for fifteen years, and be carried by that very one vote which you had previously rejected: would not this demonstrate the utter inconsistency of your legislation, in denying her fair proportion in one branch of the Government, while you suffer it to remain entire in the other? I use the case for illustration merely.

Mr. CRAWFORD, of Pennsylvania, said: That proposition is, in my judgment, so exceptionable as to justify, if not to call for, some expression of my dissent from it. I am sure nothing is further from his sentiments—nothing was more distant from his thoughts or intentions; for there is no man in this House or out of it, in whose patriotism or purity I have more entire confidence; and if proof of either were wanting, the fact that, if it should be adopted, his amendment would operate against his political friends, furnishes it. But my honorable friend will, I trust, pardon me when I say that his proposition strikes me as being at war with the very foundation principles of our institutions, and is one that I am persuaded this House cannot affirm without doing violence to the Constitution of the United States.

The first stone laid in your political edifice is popular sovereignty—that each citizen liable to be operated upon in his interests or person by your legislative or executive officers, shall, subject to such State regulation as may exist, have a voice, mediately or directly, in their selection. Who chooses the President of the United States? The people of the United States. I would ask then if the choice of a Chief Magistrate shall be effected according to the apportionment under the census of 1820, if his election will not have been virtually the act of something less than nine millions of federal population, instead of that of the twelve millions or thereabouts who have been lately ascertained to be in the United States, and who have now a right to participate in the exercise of this the highest of all civil rights. Nor is this, perhaps, although bad, the worst feature in this amendment; for, while its operation will be restrictive, it will be most unequal; while it retains to one—to several States, four I believe, a vote more respectively than they can soon claim, it will deprive others, no fewer than eleven, of not less than twenty-eight votes. Suppose we take 48,000 as the standard number—I take it because it is most likely to be fixed on here; but whether or not, it will answer my present purpose: New Hampshire, Massachusetts, Maryland, and Virginia will each lose a vote. Now, sir, I admit this is to be regretted. I am as unwilling as any gentleman to do them an unkind act, still more a seeming wrong; but I never can consent to preserve the political weight they have hitherto enjoyed at the expense of other States. Look at it, sir: to retain these four votes which the honorable gentleman from Maryland proposes, by postponing the operation of the new apportionment to the 6th day of March, 1833; what must you sacrifice? One vote in Maine, five in New York, two in Pennsylvania, one in Georgia, four in Tennessee, five in Ohio, four in Indiana, one in Mississippi, two in Illinois, one in Missouri, and two in Alabama—twenty-eight in all! Sir, with all my gratitude for New England daring and firmness, at the birth of this nation; with all my esteem for her public and private morality; and with all my respect and admiration for her institutions, political, social, and literary; with all my kind feeling for Maryland, the adjoining neighbor of my native State, her interests almost identical with ours, and the intelligence and enterprise of whose citizens are deserving of the highest commendation; with all my

veneration for Virginia, which, differing from her distinguished sons, as we do, on many important questions, we still remember as the place of Washington's, and of Jefferson's, and of Madison's, and of Monroe's nativity, and that of their successors who now worthily fill their places here, and as the soil out of which spring some of the most valued principles of free Government, I cannot consent to the sacrifice. The entire population of these United States are the electors of our Chief Magistrate; it is impossible you can preserve the spirit of our institutions without legislating so as to enable them to proceed to the choice. What, sir, to retain to four States not a twelfth part of their representation in the electoral colleges, you would take from eleven others more than a fifth of what properly, and constitutionally belongs to them—never!

Mr. KERR, of Maryland, went into a constitutional argument to show that the exercise of the co-ordinate powers of the executive and legislative departments of the Government were designed to commence simultaneously, and that the moment any census or actual enumeration of the people of the United States, agreeably to the federal numbers, was perfected under an act of Congress passed for that purpose, the relative power and right of representation of the States at once arose, and adhered to them by force of the constitution itself, and could neither be increased nor diminished. Sir, said Mr. K., this constitution was the result of great and anxious deliberation—attended with vast doubts and difficulties—and it was emphatically a compromise; and the basis of that compromise was the adjustment of this very point of the relative weight of the States included within this Union, agreeably to the federal enumeration prescribed. In the second section of the first article of the constitution, it is declared that representatives shall be appointed among the several States according to their respective numbers, to be estimated from particular descriptions of persons; and this actual enumeration is imperatively enjoined to be made within three years after the first meeting of the first Congress, and within every subsequent period of ten years. This has happened, by the operation of the first apportionment act, to fall upon or to be limited to the 3d day of March of every tenth year, from the 3d day of March, 1793; so Mr. K. insisted that, after the actual enumeration has been made agreeably to a law of Congress passed for the purpose, the States were entitled to have respectively representatives in Congress proportionate to their federal numbers, so ascertained. You may assume what ratio you please, said Mr. K., but your apportionment must be according to the respective numbers which the States then have. You cannot, sir, postpone the operation of this constitutional provision; and as it is expressly also provided that each State shall appoint as many electors of President and Vice President as shall be equal to the whole number of Senators and Representatives to which she is entitled, the relative weight of the States, in the next election of a President, is equally and as unchangeably fixed by this actual enumeration. Thus, Mr. K. contended, the constitution itself clearly established the point, independently of the contemporary construction which had been given to it by the act of 1792, referred to by the gentleman from Tennessee, and to which Mr. K.'s own attention had been drawn on the preceding evening. By this construction, he said, the designed harmony of the system was preserved, whilst two of the great co-ordinate powers of the Government would be always simultaneously set in motion. He stood, he said, for his construction, upon the language of the constitution itself, though it was doubtless confirmed in his mind by the acts of those distinguished men who were in the Congress which passed the law of 1792, some of whom had been members of the convention, and by the uniform course and practice of the Government, as traced by the gentleman from Tennessee.

FRIDAY, January 27.

Colonizing Free Blacks.

The following resolution, offered by Mr. JENIFER, came up for consideration:

Resolved, That a Select Committee be appointed to inquire into the expediency of making an appropriation for the purpose of removing from the United States, and her territories, the free people of color, and colonizing them on the coast of Africa or elsewhere.

A motion was made by Mr. THOMSON, of Ohio, to amend the said resolution, by striking out all after the word "Resolved," and inserting the following:

"That a committee, to consist of one member from each State, be appointed to take into consideration the constitutionality and expediency of procuring by purchase or cession a suitable quantity of land on this continent or some other, to be appropriated as a colony and an asylum for all, or such of the free people of color, in these States, as may choose to go; to which they may immediately or gradually be removed, as necessity may require or circumstances will permit. And to inquire into the expediency of continuing the present or some other reasonable rate of duties on imports, for a definite term of years after the existing national debt shall have been extinguished, to constitute a fund for the payment of the land above mentioned, should it be purchased, and to defray the expense of the removal to, and the support and protection of that unfortunate race of beings in said colony for a reasonable length of time; and that said committee have leave to report by bill or otherwise."

Mr. ARCHER, of Virginia, offered an amendment, which was pronounced out of order, but which he was allowed to lay on the table and have printed, as follows:

Resolved, That a Select Committee be instructed to inquire into the expediency of recommending

for adoption an amendment to the Constitution of the United States, by which Congress shall have power to appropriate the revenue accruing or derivable from the proceeds of the sales of the public lands, in aid of the construction of such works of internal improvement as may be authorized, commenced, or patronized by the States, respectively, within which the same are to be executed; and shall, in like manner, have power to appropriate the same fund of revenue in aid of the removal of such portions of the colored population of the States, as they may respectively ask aid in removing, on such conditions, and to such place, as may be mutually agreed on; for which purpose Congress shall be authorized to acquire the territory it may consider the best adapted to the object, and to govern such territory in the manner in which the Territories of the United States are now governed, for such time as the occasion for which it shall have been obtained may require; after which, the territory shall be established into a State, which shall be declared, or into several States, which shall be successively declared, independent of the United States, neither of which States shall, in any event, or at any time, be admitted into the Union of the United States.

Mr. THOMPSON, of Georgia, moved an amendment to that of Mr. THOMSON, of Ohio, substituting the Committee of Ways and Means for a Select Committee.

Mr. BOON now moved that the consideration of the resolution be postponed to the 2d day of December next, (to reject it.)

The CHAIR decided the motion to be out of order.

Mr. CLAY, of Alabama, moved to postpone the consideration to the 1st of June next, and print it.

On this motion Mr. JENIFER demanded the yeas and nays, and they were ordered.

The CHAIR now corrected the decision in relation to Mr. BOON's motion for a postponement, to the 2d of December, and received that motion.

Mr. COKE, of Virginia, said he should vote for the motion, to give time for consideration.

Mr. MERCER advocated the reference of the subject to a Select Committee, and warned its opponents that they would not get rid of the question by a postponement, as it would come up, in substance, on the consideration of various memorials now in the hands of different members, and ready to be presented.

Mr. CLAY urged the propriety of waiting for some expression of the wishes of the slaveholding States.

Mr. BOON said his object had been to get rid of an unnecessary discussion. The subject was new; and he wished to learn the state of public opinion.

Mr. CARSON thanked Mr. BOON for his motion, as going to avoid a subject out of which no good would grow, either to the free colored people or the nation.

Mr. MERCER scouted the idea that the subject was new; and referred to the action of the Legislatures of a number of the States urging it upon the attention of Congress.

Mr. THOMPSON, of Georgia, said the general subject had been a hackneyed one in all parts of the country; and, therefore, no good could come of discussing it in Congress, while much evil would be the consequence.

Mr. JENIFER replied; urged the importance of the subject; asked where it should be discussed, if not in that House. He quoted a number of resolutions from different Legislatures on the subject, and referred to the existing state of the Treasury, and the proposed reduction of duties, as an argument against postponement.

Amy Dardin's Horse.

The House took up the bill for the relief of the legal representatives of David Dardin, deceased, (to make compensation for a horse called Romulus, impressed for the public service during the revolutionary war.) [The bill allowed $1,500 in payment of it. It contained, as reported from the committee, a clause allowing interest upon the sum from the time of the impressment of this steed; but that provision was stricken out in a Committee of the whole House, on the motion of Mr. WHITTLESEY, of Ohio.]

The bill, after a few remarks from Mr. ROOT, of New York, in opposition to the claim, was ordered for engrossment; [and, on a subsequent day, was passed by a very large majority, and without a division.]

TUESDAY, January 31.

Free People of Color.

The resolution of Mr. JENIFER, proposing an inquiry on the subject of removing the free people of color from the United States, and colonizing them in Africa, or elsewhere, came up for consideration; and the question being, on the motion of Mr. BOON, to postpone the consideration of that resolution to the second Monday in December next,

Mr. JENIFER moved that the resolution, with the amendments, be referred to the Select Committee raised on the memorial from New Jersey upon the same subject.

Mr. BOON consented to withdraw his motion for postponement.

The question was then put on the reference, and carried.

Apportionment Bill.

The apportionment bill next came up for consideration; the question being on the motion of Mr. WICKLIFFE to amend the bill by simply striking therefrom the words "forty-eight."

Mr. SLADE, of Vermont, said he had watched the progress of this debate with great solicitude. The question before the House was one of grave importance, demanding a full discussion,

and most mature deliberation. Yet, at this stage of the debate, he should hardly feel himself justified in asking the indulgence of the House, but for the deep interest which the State of Vermont had in the decision of the question. That State would suffer more from a ratio of 48,000 than any other State in the Union. Indeed, sir, said Mr. S., she will have an accumulation of suffering. In the apportionment of the census of 1820 she lost one member, and was left with a fraction of 35,764. Now, unless the motion to strike out 48,000 from this bill prevail, she will be left with an unrepresented fraction of 40,657. Duty to that State demands that I should express my views on this subject, and I beg the indulgence of the House, while, as briefly as possible, I perform that duty.

The question before the House, said Mr. S., is one of deep interest to the whole country. It vitally affects the great depository of the people's power, the House of Representatives of the United States. The act you propose to pass is anomalous in its character; operating, not, as do most of your laws, upon individuals, in their relations to each other, and to the Government, but upon large and distinct masses of this great community, and regulating the balance of power between the different portions of a widely extended confederacy. It is, indeed, of the nature of a fundamental law—the formation, in fact, of a constitution for the next ten years; and demands the exercise of the same profound wisdom, and the same spirit of compromise and conciliation and mutual good will, which marked the deliberations of the framers of the federal constitution.

Sir, I am in favor of striking out 48,000 from the bill on your table, in the first place, because that number, by being placed there, possesses an undue advantage over all the other numbers which may be proposed. The results of the various propositions which have been made in Committee of the Whole to strike out 48,000, and insert other numbers, have plainly proved this. Each proposition has, of course, been opposed by all in favor of any other number than the one contained in such proposition. Thus, by a succession of victories over other numbers separately proposed, 48,000 has acquired an importance which does not intrinsically belong to it. Its strength is a factitious strength.

But it may be said that a motion has been made and lost, to strike out 48,000, without inserting any other number; and that this is conclusive evidence that 48,000 is the favorite number. Sir, this does not follow. Upon the simple motion to strike out, all in favor of any other number than 48,000 may well be supposed to have voted to retain it in the bill, for the purpose of using it to defeat, in detail, every proposition to insert numbers other than their favorite ones. And, besides, individuals opposed to reducing the representation of Rhode Island one-half, as would be done by raising the ratio to 49,000, may have opposed the striking out of 48, through an apprehension that the bill, unencumbered with that number, might finally pass with a ratio exceeding 49,000.

Now, sir, is it not obvious that an undue importance has been thus given to the decision of the committee who reported this bill? Why should that decision have such an effect, when, notwithstanding the intelligence and uprightness of the committee, it is perfectly apparent that their opinion has not resulted, and could not have resulted, from any peculiar investigation they were able to give the subject, but has been drawn from facts equally within the reach of every member of this House?

With regard to the number to which this body should ultimately be increased, I am not prepared to decide. I do not conceive I am now called on to do so. Some gentlemen have suggested seven or eight hundred as the maximum. I would avoid extremes. No proposition, however, yet made, would, in my opinion, give a number approaching an extreme; and I therefore feel at full liberty to advocate a ratio which will do the least injustice to the several States, both in regard to unrepresented fractions, and the loss of members. Whenever the time shall come when it shall be proposed to increase this House to a number which shall render the transaction of business impracticable, then, and not till then, can questions of fractions and the loss of members be regarded with indifference.

The subject of fractions has been so much dwelt on in this discussion, that the name has almost become odious. But of what are those fractions composed? Why, sir, of large bodies of freemen! And can I be indifferent, when a proposition is made, by which near 41,000 of these freemen in my native State, as intelligent as any other freemen on earth, are to remain unrepresented in this body for a period of ten years?

To show the importance which belongs to this part of the subject, permit me to advert to the consideration to which it was thought entitled by the first Congress. A bill was passed on the 23d day of March, 1792, fixing the number of representatives for the succeeding ten years at 120. That number included eight representatives from various States, on account of fractional numbers. It was sent to President Washington for his approval, who returned it with the objection that the constitution authorized no representation of fractions below 30,000. And yet so strong was the disposition to give to the people the most full and perfect representation possible—so averse was that body to leave large portions of them unrepresented, that 28 out of 61 of its members voted, in the face of the President's veto, to repass the bill.

The decision of that Congress settled the principle that fractions should not be represented. It is admitted that the application of

this principle will sometimes operate severely upon individual States. All must take their turn in bearing the burden. If, therefore, the large fraction to which Vermont and some other States are subjected, by the ratio now in the bill, stood alone, unconnected with the unequal results of a former apportionment, they might be endured without complaining. But what is the fact? In the apportionment of 1820, Vermont was left with an unrepresented fraction of 35,764. At the ratio proposed in the bill on your table, she will again have a fraction of 40,657; total 76,421. New Jersey, in 1820, had a fraction of 34,555. Upon a ratio of 48,000, she will now have a fraction of 31,922; total, 66,477. Kentucky, in 1820, had a fraction of 33,625; a ratio of 48,000 would now give her 45,832; total, 79,456. Total of Vermont, New Jersey, and Kentucky, under the apportionments of the censuses of 1820 and 1830, 222,355.

Mr. ARNOLD, of Tennessee, said he had not intended to say one word on this subject, nor did he then rise for the purpose of discussing the general question, or of controverting any of the principles which had been so forcibly urged upon the House by his friend from Vermont; but he rose for the purpose of correcting an impression which seemed to have stimulated various gentlemen in running tilts at Tennessee. The number 48, sir, happens to be the number selected by the committee to fill the blank in the bill now under consideration. That number leaves Tennessee a very small fraction. Tennessee does seem to be favored by the selection which the committee have made; I am willing to agree, sir, that she is actually favored by this selection. But I will not agree that Tennessee has sought this favor, or that she has any desire to adhere to it, for the purpose of disparaging her sisters. No, sir; I assure gentlemen that Tennessee has no such feelings. Tennessee is no hucksteress. Whence came the committee who reported this bill, which, in the opinion of gentlemen, gives Tennessee such undue advantages? Sir, they came from five different States—Louisiana, Ohio, Pennsylvania, New York, and Tennessee—the chairman happening to be from Tennessee. Do gentlemen think that the chairman had such influence with the committee as to induce them to report a bill merely to favor Tennessee? I do not believe, sir, that the chairman had any such influence; and I think the committee will deny that they were under any such.

Sir, my colleagues have again and again assured the House that they were not wedded to 48: that they felt very indifferent as to the number which should be adopted. For my own part, Mr. Speaker, so far from being wedded to this number, I have invariably, when the question came up, voted in favor of all numbers which have been proposed under 48.

When the apportionment was first mooted, I am free to confess, sir, that my feelings were enlisted on the side of high numbers. The first consideration which gave my mind a different direction was not the great principle which now governs me. I am frank to confess, sir, that I was actuated by a desire that our little sister, Rhode Island, should not be shorn of any of her strength in this House. But, sir, the more I have looked into this subject, the further the discussion of fundamental principles has been pushed, the more and more have I been inclined to the opinion that there is more danger in making this House too small, than in making it too large. Ours is a Government composed of different features. This House constitutes the republican feature. This House constitutes the branch of the Government with which the people are most familiar, and most intimately and vitally connected. I grant, sir, that there is a point at which its numbers must be limited; but in my humble opinion that point is not yet reached. Sir, I must stop; for I find myself involuntarily going into the general discussion, which I did not intend to do, and which I will not do. I rose merely, as I before stated, to correct what I thought to be an erroneous impression. I wished to show gentlemen that Tennessee sought no undue advantage over her sisters. That, if fortune had thrown a seeming advantage in her way, she was still disposed to be liberal; and even disposed to yield a portion of her good fortune, to the end that power and burden might be more equally distributed. Sir, I repeat that I have, on every vote taken to strike out and fill with a less number than forty-eight, voted for it. I felt that in doing so I was truly representing the feelings of Tennessee. The present motion being merely to strike out 48, without offering to insert any other number, I shall be compelled to vote against it. If the motion can be so modified as to insert another number in lieu of 48, I will still vote as heretofore. I do not wish, Mr. Speaker, to dictate to this House the course they should pursue; but of one thing I feel pretty certain, and that is, that not much good will result from further discussion on this subject. The question has been thoroughly and ably discussed. My friend from Vermont, who has just taken his seat, has occupied the whole ground. As to his general views on the subject, I yield them my most decided approbation. And, in conclusion, sir, I must do him the justice to say that I have been much interested and gratified with the expanded and statesmanlike views which he has expressed on the subject.

The question on striking out "48" from the bill was decided by—yeas 94, nays 99.

So the House refused to strike out the number forty-eight.

Mr. HUBBARD moved to amend the bill by striking out "forty-eight" and inserting "forty-four," and observed that, on account of the lateness of the hour, (it being now past four o'clock,) he should waive what he considered to be his privilege of addressing the House in support of his motion, if it was its purpose

then to take the question; when, on motion of Mr. CARSON,

The House adjourned.

WEDNESDAY, February 1.

Apportionment Bill.

Mr. HUBBARD said, that while the bill was under the consideration of the Committee of the whole House, he had made a motion to amend, similar to the one which he had now proposed. That motion was discussed; every gentleman who had any thing to offer, was heard—fully heard; days were spent in the discussion of the subject. It was even then his purpose to have submitted some answer to the objections, and some considerations which had induced the motion, but circumstances had prevented—the question was taken, and the vote of the committee was against the motion. He knew full well that the course pursued by the committee proceeded from no unkindness to himself: that it was a course suggested by some of his best friends. Yet he was perfectly aware that he could not, consistent with the rules of order, answer here what had been objected to elsewhere; that he could not, in the House, advert to the arguments which had been urged in the Committee of the Whole. That consideration of itself created embarrassment. It was also a fact within his recollection, that the committee had, by a vote, gone against his motion. That circumstance would have restrained him from making any further effort, had he not been encouraged to hope, by the vote last evening on the motion of the gentleman from Kentucky to strike out forty-eight. Under all the circumstances, he felt impelled by a duty he owed to himself, by a duty he owed to his State, to submit some general considerations in support of his motion to amend, and also, as far as it was proper for him so to do, to notice some of the objections which had been urged against it.

What is the purport of the bill reported by the committee? What does it propose? A division of political power among the members of the confederacy. An apportionment among the several States, for the coming ten years, of the representation of the country. This is a subject of no ordinary character; it is a subject of the highest importance to the American people; a subject involving the right of representation; a right near and dear to every member of the republic. If this bill, as reported by the committee, should now pass, the effect will be an unjust and an unequal distribution of the representative political power among the States. Should the bill pass, New Hampshire would be entitled to five representatives; the amount of her population falls a little short of two hundred and seventy thousand; and by the establishment of forty-eight thousand as the ratio of representation, it leaves her a fraction—a portion of her population unrepresented, of twenty-nine thousand three hundred and twenty-six. A division of this remainder among the number of her representatives would produce this result—that the ratio of her representation would be little short of fifty-four thousand, while Tennessee, with a federal population of 625,263, would be represented under this bill at a ratio of 48,097. In this instance, there is a most unjust effect produced upon New Hampshire by the establishment of 48,000 as the ratio of representation.

The bill reported by the committee admits the point that an increase of the representation of the country is required. That fact is conceded. It is no longer a matter in dispute. The bill itself proposes, in effect, to add twenty-four to the present number. The amendment proposes, in effect, to add forty-six to the present number. And this, then, is the question, and the only question, raised by the amendment: Shall twenty-four or shall forty-six be added to the House of Representatives? If the amendment should be adopted, the latter number will be added; if the amendment fails, the former number will only be added. He was decidedly friendly to that ratio which would give the greatest addition to our present representation. He would himself have been willing to have taken even a less ratio than 44,000; but from what he had seen in this House, from what he had heard without these walls, he believed that any less ratio than the one stated in the proposed amendment would not be sanctioned by the House.

What are the objections which have been, or which can be, urged against a numerous representation? It has been stated that our present number is sufficiently large for all practical purposes; that any addition would injuriously affect the action of this branch of the Government; that it would tend to delay the transaction of public business; that it would give us a mobocratic character; that it would make confusion worse confounded; that it would make more talking and less acting members.

These objections had failed to strike him with much force. He had no reason to believe that the people were dissatisfied with the discussions and debates of this assembly. To them it was an object of the first importance that the various subjects which claimed the consideration of Congress should be fairly, freely, and fully discussed. It was from the debates of this and the other House that the American people acquired the knowledge of the character and tendency of public measures—of general legislation. It had also been stated that there was much more danger of corrupting a numerous than a limited assembly. He dissented altogether from the correctness of this position. More danger of corrupting a large than a small assembly? Then it must follow that there would be greater danger of corrupting the whole body politic, the great mass of the community, than any part of them. The idea is

founded in error. The people are the source of all political power. They are most emphatically the sovereigns of the land. The security and the permanency of our free institutions rest on their virtue and their intelligence. There can be no possible danger of destroying the foundations of this republic, so long as a virtuous and intelligent people shall be fully represented on this floor. Unless the fountain shall become corrupt, the stream will be pure.

He was in favor of a numerous House, because it better preserved the relation between the constituent and the representative. It must, of necessity, bring the latter nearer to those from whom he has received power. It must lead to a more intimate acquaintance, a more free and unreserved intercourse between persons standing in this relation. The representative is made the depository of the wishes of his constituents. He is presumed to know and to understand their interests; and, by every effort in his power, consistent with his public duties, should advance those interests.

If, then, a representative would be faithful, he must know his constituents. This consideration had a controlling influence in his mind, and must induce him to give his support to the proposed amendment.

He did not purpose, at this time, to go into any argument showing the advantage of a numerous assembly, in counteracting Executive influence, or the influence of the other legislative branch of this Government; that ground had been fully occupied; and most important reasons on those points had been presented, why we should increase the number of our representation.

Reference had been made, in the course of the debate, to the first Congress, contending that that assembly was an example worthy of imitation; and urging that if that Congress, consisting of only fifty-four, could then transact the public business of the colonies, there was surely no occasion to add to the number of two hundred and thirteen, for the convenient transaction of the public business of the States. The old Congress was constituted on no fixed rule. It was an assembly of choice spirits, produced by the most pressing and urgent necessity. Every State in the confederacy sent what number it pleased, not exceeding seven, and paid those sent out of her own resources; and each State had but one vote. It was, in short, an assembly to devise ways and means for the prosecution of the war. Then we had no commerce; no great manufacturing interests. How different is the state of the country at this period of our history!

But what was the language of the fathers of the republic—of that assembly second to none on earth for the purity of its patriotism, which first convened under the constitution by which the great interests of this country are intended to be protected? It was not only their argument, but their most deliberate act, that there should be one representative to every thirty thousand inhabitants. At that time the interests of the country were so multifarious and extensive, that it was then considered that the popular branch of this Government should be constituted by such a number. This example, and these precepts, coming, as they do, from such high authority, should have effect here; and, by adopting the amendment, you would carry out the principles of our political fathers.

He would address himself to the representatives of slaveholding States, to bear in mind the difference between their situation and the situation of those who represent districts peopled as the districts of New England are. While the representative from Virginia, from the peculiar population of his district, is enabled to be personally known to the freemen of his district, it is not so with us. We would then ask for stern justice at their hands.

Mr. MCCARTY, of Indiana, commenced by observing that he approached the subject before the House with the greatest reluctance; not that he was apprehensive that his views, with regard to it, would fail of receiving whatever degree of attention and consideration they might be thought entitled to, but because he had been unwilling, from the first, to participate in the discussion of the question, and to contribute thereby to the further protraction of the debate, and retard the final action of the House upon the bill. He had been impelled, however, to deviate from the path he had marked out for himself in relation to this measure, by the course which the debate had taken, on the proposition of the gentleman from New Hampshire, (Mr. HUBBARD,) and the line of argument pursued by other gentlemen of the House in support of his (Mr. H.'s) amendment. He had been led to this by a sense of duty to his constituents, and by the regard which he necessarily felt for the interests of the West; and to these considerations, which had induced him to trouble the House with a few remarks upon the bill before them, might be added a third; that was, that he regarded it not merely as a question affecting the different States, with respect to the apportionment of political power in the representative assembly of this nation, but as involving, also, the great constitutional principle, that representation should be equal: and this not simply that it should be equally apportioned for any one given time, but during the whole period, as far as could be, of the operation of the bill.

Many appeals, he observed, had been made to the generosity and magnanimity of the new States, on the effect which the ratio of forty-eight thousand, as reported in the bill, would have upon the interests, or the relative weight, of the older States of the Union. A very eloquent and powerful appeal had been made, in particular, by the gentleman from Massachusetts, (Mr. BRIGGS,) who, in the course of his interesting speech, had asked the West to re-

member that, in the days of her infancy and weakness, she was taken in the hand by her elder sisters of the South and the East, and introduced into the great republican family of the nation upon principles of equality and justice. Mr. McC. here observed that he was bound to say, in vindication of the West, that, for the continuance of those principles of equality and justice, and for those alone, it was that he contended against the proposed amendment of the gentleman from New Hampshire, which, as the tables before them demonstrated, would throw an unequal and unjust weight upon the younger States, by placing the largest fractions of unrepresented population upon those which had, at present, and in the very nature of things, must have, in future, the most rapid, and progressively rapid, increase in numbers. He should not attempt to follow the whole of the arguments of the gentleman who had so ably spoken in support of the amendment, even if he imagined himself capable of throwing more light upon the question by argument alone. He should prefer to state a few facts, and refer to the conclusions which it would be apparent were the only just ones that could be drawn from them, as to the fallacy of that reasoning which, admitting the great and important principle of an equal representation, contended that that desirable end, in our republican Government, could be attained only by the establishment of a ratio of forty-four thousand.

We have been told that the West is rapidly growing upon the old States, and that, therefore, we ought not to regard the quantum of fractions. Why, this is the very reason, in my opinion, why we should guard against an unequal amount of unrepresented fractions; and it is, moreover, the very reason why the old States should be content with their share of the unrepresented fractions. The enumerations of the populations of 1820 and 1830 show at once the fallacy of the arguments on this subject. If, by the emigration from the East and the South, the new States are increasing in population with a rapidity beyond all precedent in the history of the world, the old States, with a few and those few very limited exceptions are either decreasing or remaining stationary. The result, therefore, of large fractions being thrown upon them, is comparatively of little consequence; for, if we are to judge from the censuses of 1820 and 1830, a small fraction in the new States will increase in ten years to more than double the ratio of representation itself; whilst, in the old ones, a large fraction will either be diminished, remain stationary, or, considering it in the most favorable point of view, very little, if at all, exceed the ratio. He might also say, and he believed that, in saying so, he was warranted by the facts of the case, that the old States, even at the present time, would receive a further benefit, and the new States a corresponding injury, from the ratio of representation, whatever it might be, being fixed according to the census of 1830. Since that enumeration had been made, vast numbers of persons had migrated to the West; those persons were necessarily added to the existing fractions in the West; and the mere fact of their having crossed the mountains since the census was taken, operated to deprive them of their equal weight of representation on this floor. Does not this affect the relative strength of the States? The old States, though losing a part of their population, would retain, at any ratio, the number of their population in 1830, whilst the West would, with its own natural increase, have also to bear the fractional weights of the redundant population from the East and from the South.

Mr. ADAMS, adverting to the lateness of the hour, and to an allusion made about the same time of day, by Mr. WILDE, to a passage in the memoirs of the Cardinal de Retz, as to the influence of the dining hour on political affairs, said that his memory recurred to this line of a British poet:

"And wretches hang, that jurymen may dine."

Admonished by this remembrance he would delay the House only by a statement or two in reference to the observations which had now been made. He then observed that the argument of Mr. SUTHERLAND, as to the share of New Hampshire among the Secretaries of departments, would not apply to Massachusetts. He then quoted the language of the constitution where it describes the qualifications necessary to a member of the House of Representatives, and, remarking that it did not contain the slightest allusion to the place where the representative had been born, inferred that the other part of the argument, which referred to natives of New England representing other States, and being heads of departments, had its origin not in the constitution, but in the prolific brain of the gentleman from Pennsylvania.

He then briefly replied to the remarks of Mr. MCCARTY, whether it might not be out of com passion to the old thirteen States, or from whatever other motive, he should be greatly obliged to gentlemen if they would leave the representation of those States unimpaired. He disclaimed any pretension or demand on their behalf to any favors. All they asked was equal justice, and he was quite as zealous that all the other States should retain their present number of representatives, as that Massachusetts should. The question with the Western States was, not whether they should lose any part of their representation, but how much they should gain. He did not envy them, nor would he do any thing to prevent their increase of members. If the number 44 should produce that effect, he had not the smallest objection. He then presented the result of a calculation, contrasting the effect of the bill, as reported, on the States from which the members of the Select Committee who reported it individually came, with its effect on those States who considered themselves aggrieved. He found that there were

on the committee one gentleman from Tennessee, one from Pennsylvania, two from New York, one from Ohio, and one from Maine. Dividing the population of those States, respectively, by 48 as a common ratio, he found the result to be, that Tennessee would have one representative for every 48,097; Pennsylvania, one for every 48,145; New York, one for every 49,054; Ohio, one for every 49,257; and Maine, one for every 49,937. But what would be the case with the States aggrieved? Maryland would have one representative for every 50,730; Massachusetts, one for every 50,867; Kentucky, one for every 51,819; Georgia, one for every 53,726; New Hampshire, one for every 53,865; and Vermont, one for every 56,131.

Mr. BARSTOW said that as the gentleman from Massachusetts (Mr. ADAMS) had gone into a calculation to show that the committee who reported the bill, (of which he had the honor to be a member,) were actuated by improper motives, he considered it his duty to repel every such insinuation. [Here Mr. ADAMS explained, and said he meant no impeachment of the committee.] The gentleman from Massachusetts disclaims any intention of impeaching the motives of the committee, but the gentleman certainly did not go into an arithmetical calculation to show that the States which had members on the committee, with the exception of Louisiana, had a greater representation given them in the bill, at the ratio reported by the committee, in proportion to their population, than any other States, and particularly them, the State of Massachusetts and other States, whose members were in favor of 44,000 as the ratio. The inference to be drawn from these calculations of the gentleman, could not be mistaken; it must be that the committee were governed by interested motives. So far as this was intended to apply to the two members who were on that committee, from the State he had the honor, in part, to represent, (the State of New York,) he trusted he should be able to show that whatever might have been the motives of the other gentlemen, members of the committee, the members from New York had no interest to promote by the ratio of 48,000. By the ratio of 48,000, which was recommended by the committee, New York would have the greatest possible fraction which she could have by any ratio which had been proposed. There was only one other ratio that had ever been contemplated, that would leave as great a fraction for New York, as 48,000. That ratio, if the calculations on our tables are correct, is the ratio of 52,000, which would leave precisely the same fraction. He trusted, therefore, he had been able to show that the members of the committee, from New York, are clear of any just charge of selfishness in the course they took in the committee. It is true he did not prefer the ratio of 48,000, being in favor of one much higher. He had intended, being a member of the committee, to have made some remarks as to the merits of the different propositions which had been made; but not being accustomed to speaking here, and others appearing desirous of being heard, he had not thought proper to trouble the House except in the way of self-defence. He deemed it his duty, on all occasions, to repel any insinuations that might be thrown out, which should leave any impression upon the minds of the public at large, or of the members of this House, that he was governed by any motive not honorable to himself, or just towards others.

Mr. POLK also replied to Mr. ADAMS. The ratio of 48 gave Louisiana but one representative to 57,000 persons, yet the member from that State had been in favor of it, and was, in fact, the person who had moved it in committee. If the gentleman had pursued his calculations a little further, he would have found that, at the ratio of 44, a representative from Missouri would have 65,000 constituents, Alabama, 52,000, and Illinois, 52,000. Mr. P. further stated that the effect of 48 would be to give to the Northern section of the Union a fraction of 2,141; to the Southern section of 2,702; and to the Western of 2,240, while the result of 44 would be to allow to the Northern section a fraction of 1,507; to the Western of 2,124; and to the Southern of 2,861.

The question was thereupon put on striking out forty-eight thousand and inserting forty-four thousand, and decided in the affirmative by yeas 98—nays 96.

FRIDAY, February 3.

Washington's Centennial Birthday.

Mr. THOMAS, of Louisiana, asked the consideration of the following joint resolution, moved by him some days since:

Resolved, That if the Senate concur herein, a joint committee of the two Houses be raised, for the purpose of inquiring into the expediency of celebrating the centennial birthday of General George Washington.

The House having consented to consider the resolution,

Mr. ADAMS suggested to the mover to modify his resolution by striking out the word "General."

Mr. THOMAS accepted the modification.

Mr. TAYLOR suggested that the resolution be further modified, by striking out the words "if the Senate concur herein," which was also accepted by the mover.

Mr. ADAIR thought it would have been better to have retained the word "General," and insert before it the word "Major," so as to read "Major General George Washington." He considered this proper, because the fame of General Washington rested chiefly on his military services, and Mr. M. moved the alteration as an amendment.

Mr. ADAMS said that he had two motives for the suggestion he had previously made—the first was, that whatever might be the estimate

of General Washington's character, formed by the world at large, his own opinion was, that his services to the country in a civil capacity were quite as important, and as worthy of commemoration, as his military achievements. If, then, the resolution should be so framed as to have reference only to his military services, its effect would be, so far as the resolution was concerned, to cut off one-half of his merit—his second motive was to give the resolution simplicity. The simple name, "George Washington," expressed more than if it were accompanied with a whole volume of titles, civil or military.

Mr. ADAIR made a reply; no part of which could be heard.

The Speaker, not having heard the gentleman, inquired whether he withdrew his amendment; to which question he was understood as replying in the affirmative.

On the motions of Mr. TAYLOR and Mr. HOGAN, the phraseology of the resolution was amended, so as to read as follows:

Resolved, That a joint committee of the two Houses be appointed, for the purpose of making arrangements for the celebration of the centennial birthday of George Washington.

In which form it was adopted almost unanimously; and, on motion of Mr. WICKLIFFE, it was referred to a committee of twenty-four, one member from each State.

[The following gentlemen composed the committee on the part of the House of Representatives, viz:

Mr. THOMAS, of Louisiana, Mr. ANDERSON, of Maine, Mr. HUBBARD, Mr. ADAMS, Mr. BURGES, Mr. HUNTINGTON, Mr. HUNT, Mr. CAMBRELENG, Mr. L. CONDICT, Mr. MUHLENBERG, Mr. MILLIGAN, Mr. HOWARD, Mr. McCOY, of Virginia, Mr. HALL, of North Carolina, Mr. DRAYTON, Mr. THOMPSON, of Georgia, Mr. WICKLIFFE, Mr. BELL, Mr. VANCE, Mr. BOON, Mr. PLUMER, Mr. DUNCAN, Mr. CLAY, Mr. ASHLEY.]

TUESDAY, February 7.

Apportionment Bill.

The question was still on Mr. HUBBARD'S motion to fix the ratio at 44,000.

Mr. WATMOUGH said he had intended to give a silent vote on the question under discussion, but the peculiar circumstances in which he had found himself placed, induced him to ask the indulgence of the House, while he stated the reasons of the several votes which he had given, and the principles which compelled him to stand alone as respected his own delegation. He should do this as concisely as possible, not in the hope of enlightening the House, or changing the final vote of any gentleman on this floor; but rather with the view of making himself distinctly understood as well here, among his honorable colleagues, for whose opinions he entertained the highest regard, as at home, among those who were justly entitled to be informed of his sentiments upon all great topics, and of the particular grounds he took in reference to the very important one now before the House, in which he conceived them to be so deeply concerned.

In the humble view I take of this matter, I deem it important that this the popular branch of the Government should be increased to its utmost business limits, before any partial expression can or ought to be taken, particularly on this floor, of the unsoundness or inexpediency of the principle of increase. It is unquestionable that this increase must take place at a period of time not very remote, to an extent much greater than that now called for by the amendment proposed—that it will reach even double that number, even within the probable duration of the lives of many honorable members, now within these walls, I can have no doubt. Is it not, therefore, better that this great experiment of representative Government should be fairly tried, now, while our blessed country is in a state of comparative innocence and virtue? Is it not better that it should commence now, under the most favorable circumstances, and progress gradually with the increase of our population, the enlargement of our interests, and the growth of mental improvement throughout our land? Or, sir, shall we, acting under a fatal illusion, consent to postpone this increase to a period when licentiousness shall have in some measure displaced that sober sense of liberty which now characterizes our people? When the bright light which has hitherto illumed the path of our public councils shall, perhaps in the too natural course of events, have faded and become dim as it recedes from that immortal source from whence it first drew its existence? When avarice shall have corroded the hearts of our countrymen, and expelled the elevated spirit of patriotism which actuated our forefathers? Or the love of power, almost the first principle developed in our infancy, and in nations as in individuals, manifesting itself in a due ratio with the means to gratify it, shall have turned the minds of men from the pure and simple contemplation of republican integrity? Or, until ambition, whether of a civil or military character, shall have infused its poison into the body politic? Or the increased means of luxurious indulgence shall have enervated the minds and debased the characters of our youth, and disqualified them for that career of public usefulness which is now open to all of them? Then, too, when added to other evils, the spirit of dissension shall reign paramount, and place insuperable bars to the union of men to effect any laudable design whatever. I trust not, sir. I think it will hardly be contended that this is the course it becomes us to adopt. The people have placed us here as sentinels upon the great bulwark of their liberties. And, sir, they will expect at our hands the establishment of every guaranty by which those liberties can be secured.

But, said Mr. W., not only is the present increase expedient. I consider it a positive necessity arising from our form of Government, and purely incidental to the expansion of our population, and of the vast interests involved therein. It was aptly and profoundly remarked by the honorable gentleman from North Carolina, (Mr. WILLIAMS,) that the bill before the House involved the fundamental principles of our Government, and as such it ought to be approached. I agree altogether with the honorable gentleman, and as such only can I consent to approach it. In vain have I endeavored to discover a single argument calculated to invalidate this position of the friends of a low ratio. Objections have been urged against increase, arising from the form and construction of this Hall. I agree with my honorable friend from North Carolina, (if by that title he will allow me to call him,) that it would be better, far better, to level this splendid edifice to the ground, rather than let it stand an obstacle in the way of a full representation of the whole people of this Union. Better, sir, revert to the primeval simplicity of our Saxon ancestors of old, or our red brethren of the far West, and meet in our "council of wise men," under the broad canopy of heaven.

The question was taken on striking out forty-eight thousand, and inserting forty-four thousand, and decided in the negative—yeas 88, nays 102.

WEDNESDAY, February 8.

Report on the Tariff.

Mr. MCDUFFIE, from the Committee of Ways and Means, reported the following bill:

A Bill to Reduce and Equalize the Duties on Imports.

Be it enacted, &c., That, from and after the 30th day of June next, there shall be levied, collected, and paid, on all iron and steel, salt, sugar, cotton bagging, hemp, flax, and manufactures of iron, cotton, and wool, imported into the United States, duties of twenty-five per centum ad valorem, and no more, until the 30th of June, 1833; after which, the said duties shall be eighteen and three-fourths per centum ad valorem, and no more, until the 30th of June, 1834; after which, the said duties shall be twelve and a half per centum ad valorem, and no more.

And be it enacted, That, from and after the 30th day of June next, there shall be levied, collected, and paid, on all other merchandise imported into the United States, twelve and a half per centum ad valorem, and no more; except such articles as are now imported free of duty, or at a lower rate of ad valorem duty than twelve and a half per centum.

The above bill (which was twice read and committed) was accompanied by a report of considerable length. When it was announced,

Mr. INGERSOLL said he would avail himself of the present moment to state to the House that he differed *toto cœlo* from the majority of the committee by whom the report had been made. It was true he stood in a small minority in the Committee of Ways and Means on this question, only one gentleman, the honorable member from Pennsylvania, (Mr. GILMORE,) agreeing with him in committee in regard to the protective policy of the country. He had heard the report read but once, and had no opportunity to examine it before its introduction; it was a long manuscript of some thirty pages, and further time would be necessary before the minority would be able to prepare a counter report, expressing their views, which they intended to do hereafter. He considered the principles of the report and the accompanying bill as aiming at the subversion of the manufacturing interests, the great mechanical interests, and, he might add, the navigating interests too, at least so far as the fisheries are concerned, for the levelling doctrines put forth make no distinction on the rate of duties on any kind of imports, however they might bear on either of those great interests referred to: all were brought down to twelve and a half per cent., thus uprooting the earliest and wisest policy of the republic. He felt, therefore, bound, in common with his friend from Pennsylvania, (Mr. GILMORE,) to meet the report with a protest at its first introduction here, as they had done in the committee room, and should reserve to himself and his associates who went with him, the right of presenting their objections more in detail hereafter, and in a more formal manner.

Mr. VERPLANCK remarked that he, too, as a member of the Committee of Ways and Means, must ask to be indulged in the same privilege which he had just claimed for one of his colleagues on the committee, and to express his own dissent from the report just made by their chairman. It, however, was his misfortune on this occasion to occupy a singular and solitary position on the committee, differing very widely from the views of those with whom he had often before acted on similar occasions, without agreeing with the principles and objects of that minority who ably represented the manufacturing interests. The report made by the chairman, and in which the three Southern members of the committee had concurred with him, contained many principles and arguments in which, said Mr. V., I fully agree; but I must wholly protest against much of it, which represents the great burden of the existing tariff laws as falling almost exclusively in heavy taxation upon the planting or cotton exporting States, whilst the Northern and Middle States receive from it nothing but benefits. I cannot assent to any report on this subject, which denies or omits to notice the heavy weight laid by an extravagant and ill-judged tariff upon the free laborer of the North; the effect produced in diminishing the real reward and wages of free labor; to say nothing of its operation upon commercial enterprise. If I could think that my opinions on these and other points on which I differed from my colleagues on both sides of the

committee, were in any sense original or peculiar, I could not have thought of indulging any pride of opinion, by thus obtruding them upon the House. But I am confident, that if alone in these views in the committee room, I am not so in this House. At any rate, I am sure that I express the conviction of a numerous and intelligent body of my own immediate constituents, and of no inconsiderable number of other valuable citizens of the State I, in part, represent.

Still this report contains much higher matter —many weighty opinions and arguments lucidly and powerfully urged—arguments that, if erroneous, (as I think they partly are,) are yet entitled to the most serious consideration of the people of this Union, as expressing the deliberate and deep-felt convictions of a great body of their brethren. It is for these reasons that I shall, as soon as it is in order, move for the printing of five thousand additional copies for distribution. In the mean time, I must make this personal protest as to much of its doctrines, reserving to myself the right of doing it hereafter in a more formal manner, by a counter report, or upon the floor of this House.

In regard to the bill accompanying this report, I feel it my duty to add that I did not agree to the expediency of introducing it in this form, whatever I might have thought of it theoretically, and under other circumstances. From the low point of final reduction proposed, the rapidity of reduction, and the sweeping extent of its operation, it does not seem to me to offer any satisfactory basis for the adjustment of that disturbing question which threatens to rend this nation. For such an adjustment I had hoped at the beginning of this session. I still hope for it, though often fearing that I am hoping against hope. Yet I do still look around me, and especially to some parts of this House —[here Mr. V. appeared to address the chairman of the Committee on Manufactures]—with the strong hope of yet participating in a course of legislation conceived in the spirit of peace, and resulting in peace. Until then I must protest against being considered a party to any measure or any expression of opinion calculated to prevent or delay such measures.

The report was then ordered to be printed.

Report on Steam Carriages.

Mr. MERCER, from the Committee on Roads and Canals, reported the following resolution:

Resolved, That the report of a Select Committee of the House of Commons of Great Britain, bearing date October 12th, 1831, on the use of steam carriages on common roads, with the minutes of evidence, and appendix attached thereto, be printed.

Mr. SPEIGHT was not disposed to cavil at any means by which information might be afforded to the House; but when called upon to vote away a portion of the public money for the purpose of printing a work, he thought it due to himself, and to those whom he represented, to ascertain what was the value of the work to the public, for which a disbursement of the public money was sought. He should like the work in question to be laid on the table, that members might have an opportunity of examining and judging for themselves as to the propriety of making an appropriation of the public money for the purpose of printing it.

Mr. MERCER said that the information contained in the report could not be otherwise obtained at an expense short of three thousand dollars. It was a proposition of the Committee on Internal Improvements, not one of his.

Mr. HOWARD suggested to the gentleman from Virginia the propriety of amending his motion, so as to have an extra number of copies printed.

Mr. MERCER said that, acting under the orders of the committee, he could not at that time offer such an amendment; when the copies ordered, however, should be supplied, a motion might be made for printing an extra number, if gentlemen thought proper.

Mr. MITCHELL was quite as anxious that the House should be well informed on every subject as any gentleman on that floor; but he thought they might as well publish a book on mathematics at the public expense, as the subject before them. He thought they could only authorize the printing of such works as sprung immediately out of subjects before the House; and such was not the case with the report in question.

Mr. EVERETT would offer one or two observations. It was but a week since that the Committee on Foreign Affairs had moved for the printing of a report of a committee of the British House of Parliament on the subject of the cholera morbus; and a gentleman from New York had subsequently moved the printing of a number of extra copies. No gentleman had, on those occasions, objected to the constitutionality of appropriating public money for the printing of works on medicine or nosology. He would not be understood to place those matters which affected the health or life of the community, on a parity with those relating to internal improvements; but it must be admitted that every thing which could facilitate the latter, was of great interest and importance to the whole commonwealth.

Apportionment Bill.

The question depending at the time of adjournment yesterday was on striking out the ratio of 48,000, and inserting 45,000.

The question upon this amendment was forthwith taken without debate, and decided in the negative—yeas 68, nays 118.

Mr. DODDRIDGE moved to strike out 48,000, and insert 46,000.

This motion was also negatived—yeas 71, nays 116.

Mr. VANCE then moved 44,400 as a substitute for the ratio of 48,000.

Mr. ADAMS, of Massachusetts, then rose, and addressed the House as follows:

Mr. Speaker: As this is probably the last opportunity which will be afforded for presenting to the House considerations in behalf of those States which are aggrieved by the ratio of representation fixed in the bill reported by the committee, I feel myself impelled, by an irresistible sense of duty, to offer some remarks; in doing which, however, I promise not to trespass long upon the indulgence of the House.

In the first place, I would draw the attention of the House to the hardship of the case of the States aggrieved. Some days since, after a long and full discussion of the question between the number of 48,000 reported by the committee, and of 44,000, which will leave every State without curtailment of her representation upon this floor, the House did decide, by a vote of ninety-eight to ninety-six, in favor of the latter number; a vote by which, I did flatter myself, that those who had the power of life and death in their hands would permit us all to live—for to take away from any State of the Union a part of her representation in this House, is to take from her a part of her life.

The next day, however, a respected member from Pennsylvania, for whose vote I had felt grateful the day before, moved a reconsideration of that vote; I took the liberty to inquire what were his reasons for moving that reconsideration; he answered that it was because there were members present who had been absent the day before, and who wished for an opportunity to vote upon the question. They did vote, and the decision of the preceding day was reversed by a vote of one hundred to ninety-four. But observe, sir, that the number of voters was precisely the same. If these new members had come in to vote the second day, there was an equal number who had voted the day before, and who were then absent; so that we had not only to contend with the new comers, but lost, by absence, votes which had been given for us the day before. We also lost two votes from Pennsylvania, which had been with us the preceding day, but were, on the reconsideration, against us. The decision of the question, then, is in the will of Pennsylvania. To her were the aggrieved States indebted for the decision in their favor; to her must they attribute the reversal of that decision.

In the debate of the day upon which we were so fortunate as to carry the ratio of 44,000, I had taken the occasion to remark the singular coincidence between the composition of the committee which reported the bill, and the number of 48,000 fixed as the ratio of the representation in it. The chairman of the committee is a citizen of the State of Tennessee. There were on the committee one member from the State of Pennsylvania, two from New York, one from Ohio, one from Maine, and one from Louisiana. These six States have now ninety-three members on this floor, while the six States specially injured by the ratio reported in the bill, New Hampshire, Massachusetts, Vermont, Maryland, Georgia, and Kentucky, have only fifty-four members. The two States of New York and Pennsylvania alone have sixty members—six more than the aggregate number of the six injured States. Recurring again to the ratio reported by the committee, it will be seen that, to the State of Louisiana, there is scarcely any difference between the ratio reported, and that now proposed in its stead; nor is there any material difference to the States of New York, Ohio, and Maine. But with the State of Tennessee, to which the chairman of the committee belongs, and with the State of Pennsylvania, of which one member of the committee is a citizen, the case is not the same. So peculiarly adapted is the reported number of 48,000 to the returns of the census from those two States, that it gives to Tennessee thirteen members, with a population of 625,263; and to Massachusetts only twelve members, with a population of 610,407. It gives to Pennsylvania twenty-eight members, one for every 48,145 souls in the State, and to Vermont only five members, or one for every 56,131 souls. Is this what the constitution prescribes—a representation according to numbers? The State of New York did not carve for herself. There is little difference between the two numbers to her, and we find her members on this floor voting diversely upon the questions which have arisen. But how is it with Pennsylvania, now the dictatoress of this apportionment? She has twenty-six members on this floor. With one or two exceptions, she has voted in solid phalanx against us. One of her members, (Colonel WATMOUGH,) indeed, has uniformly voted in favor of the injured States. He gave us yesterday his opinions, in a manner to which the House, and I trust the nation, will do justice. Whatever the effect of the vote now to be given may be, his opinions were delivered in a manner honorable to himself, and which will reflect honor upon his constituents. There was no selfish or contracted principle of exclusiveness in his system; it was founded on the purest basis of republicanism—on those principles of conciliation and of mutual concession which ought to govern all the councils of this Union, and of which we have more than ever need at this time. With that exception, and one more, yielded for one day, and then decisive in our favor—but, I lament to say, the next day withdrawn, with like but opposite effect—with one or two of these exceptions, Pennsylvania has moved in solid column to sustain the ratio which suits herself, and which is so unequally oppressive on six of the smaller States of the Union. I do not mean to complain of the honorable members from Pennsylvania. I merely state and lament the fact. They have doubtless done what they consider to be their duty. As the representative of a portion of the people of a State which at the first organization of this Government had a representation in this House of numbers equal to hers, now reduced and divided into the condition of a small State, I observe with no invidious feeling that swelling

tide of prosperity which has yielded so large an increase to her representation here; but if the effect of that increase is to be what we are now witnessing, I ask gentlemen to consider what the condition of the smaller States of the Union will be. Once in every ten years to have the apportionment of their representative numbers fixed with extreme partiality and inequality by one, or certainly by a combination of two of the largest States! What, for instance, could resist the combination of the two States of Pennsylvania and New York, even now returning sixty votes in this House, to establish any ratio of representation which should precisely suit themselves, and at the same time favor one portion of the smaller States, to the grievous oppression of another? If this example should now be set, how much more at the mercy of those States will the rest be, with their increased preponderance at the next apportionment ten years hence; and how can the smaller States expect ever to obtain relief?

Mr. COULTER replied at some length, and submitted his reasons for resisting the appeal of Mr. ADAMS, and for opposing the amendment.

Mr. CLAY and Mr. POLK also opposed the amendment, and Mr. WAYNE, Mr. LETCHER, Mr. CARSON, and Mr. SLADE advocated it.

At length, after loud calls for the question, the question was taken—yeas 97, nays 97.

The House being equally divided, the Speaker voted in the affirmative, and decided the question in favor of the amendment.

Mr. TAYLOR then rose, and said there had been no opportunity for taking the sense of the House on a ratio larger than that reported in the bill, and to get at that object, he moved to recommit the bill to a Select Committee, with instructions to strike out the ratio of 44,400, and insert 53,000. This ratio, he said, would give the least possible increase to the present number of representatives, namely, one member.

Mr. BRIGGS moved an adjournment. Lost—yeas 89, nays 102.

Mr. TAYLOR demanded the yeas and nays on his motion, and they were ordered.

Mr. MITCHELL, of South Carolina, renewed the motion to adjourn; which was also negatived.

The question on the motion for recommitment, was decided in the negative—yeas 66, nays 129.

THURSDAY, February 9.

Steam Carriages on Roads.

The motion of Mr. MERCER, from the Committee on Internal Improvements, to print the report of the British House of Commons on the subject of the operation of steam carriages on roads, coming up,

Mr. CAMBRELENG thought that if it were proper to appropriate five thousand dollars annually for the purpose of a library for the use of Congress, it was equally proper to vote for an appropriation which would diffuse information, universally useful, not only amongst the members of that House, but throughout the nation. He would go as far as the gentleman from South Carolina, who spoke upon this subject on a preceding day, as to the constitutional question, but he did not consider the present would be an infringement on the principles of the constitution, if the annual vote of five thousand dollars for the Library of Congress was not so considered.

Mr. MITCHELL, of South Carolina, said he had not objected to the constitutionality of the proposition, but to its expediency. He was as great an advocate for free trade as the gentleman from New York was for internal improvements; but he should not feel himself justified in calling on that House to appropriate money for the printing of a work, containing an exposition of the advantages of free trade. And what was the work before them but a work on mechanics?

Mr. DRAYTON was willing that the same course should be pursued as to the present work, which was adopted as to others imported from the other side of the water. He would vote to put it in the Library.

Mr. MERCER hoped that if he could show that gentlemen had wholly misconceived the merits of the proposition, they would assent to the motion to print the document before them. That House was frequently called upon to decide betwixt the propriety of constructing a road or cutting a canal; the report in question would aid them in such decision. He would further state that there was not another copy of the document in the United States; nor could another be obtained before the conclusion of the present session. He hoped this would be a sufficient answer for all the objections which had been proposed.

Mr. DAVIS, of Massachusetts, conceived the subject of land transportation by steam to be one of the greatest importance to the nation. They had seen the almost incredible effects which it had produced on water carriage, and there was reason to believe it would be found still more powerful by land. If the transmission of intelligence from one part of the country to the other could be facilitated, whether regarded as to its advantages in the state of war or of peace, it was the duty of the Government to lend its aid to such a purpose.

Mr. BARNWELL rose to point out a difference in the present case, and the one formerly referred to by a gentleman from Massachusetts, (Mr. EVERETT,) that of a report printed at the request of the Committee on Foreign Affairs, on the subject of the cholera morbus. That request had arisen from a memorial referred to them on the subject. He thought gentlemen could not avoid seeing the distinction between that case and the present. He had always expressed his abhorrence that members of that House should, by their own vote, supply them-

selves with libraries. What was the effect of the present motion but to supply them with an additional volume? It might be that some members considered their constituents as amply compensated by the additional wisdom they thus attained; but having neither experienced it in his own case, nor noticed it in the action of that House, he conceived it his duty to vote against the proposition to print the report on the table.

Mr. POLK here made an ineffectual motion that the House proceed to the orders of the day.

Mr. DEARBORN followed in support of the resolution to print, and enlarged on the importance to the whole community of the information contained in the report.

Mr. WICKLIFFE expressed a hope that the House would proceed at once to vote upon the proposition.

Mr. MCDUFFIE said the only question appeared to be how the House should get the information. For his own part, he (Mr. McD.) thought that if they were to have it, they had better obtain it from their own printer, than import books from abroad to fill the Library of Congress.

Mr. MITCHELL, of South Carolina, moved an amendment, to add the words, "that at any such time as may be expedient" the printing might be ordered.

Mr. L. CONDICT moved the previous question, which being sustained, the amendment was cut off; and

The question upon agreeing to the resolution was taken by yeas and nays, and decided in the affirmative—yeas 120, nays 61.

Apportionment Bill.

The House resumed the consideration of the bill to fix the ratio of representation.

Mr. CLAY, of Alabama, moved to amend the amendment by striking out 4 and inserting 7, so as to read 47,300.

Mr. MERCER, went into a statement of the votes yesterday on the ratio of 44,400, and of the known sentiments of certain of the absentees, to show that a majority of the whole House was in favor of that ratio, and that it was not fair, therefore, to press the ratio of 47,300 to-day, when from various causes the House might be differently composed, and not express its true sense.

Mr. POLK argued to show the fallacy of endeavoring to satisfy every State, as it was now plain that as fast as one State after another was yielded to, it held out inducements to others to attempt still further changes to accommodate them, and thus removed each successive decision as far as ever from satisfying all.

Mr. CLAYTON, of Georgia, stated his desire to offer an amendment, the substance of which was that each State which, under the ratio adopted, should have a fraction equal to half the number of the ratio, should, for such fraction, be entitled to an additional member. He was confident he could show to the House that such a provision was not forbidden by the constitution; and he thought it would reconcile all the existing difficulties in fixing the ratio; but

The Speaker decided the proposition to be not now in order.

The question was then put on Mr. CLAY's amendment for 47,300, and was decided in the negative—yeas 82, nays 111.

MONDAY, February 13.

Washington's Remains.

Mr. THOMAS, of Louisiana from the joint committee of the two Houses, appointed to report on the subject of the centennial anniversary of the birthday of George Washington, made a report, (the same as that made to the senate on the same day,) accompanied by the following resolutions:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the Senate and the Speaker of the House of Representatives be hereby authorized to make application to John A. Washington, of Mount Vernon, for the body of George Washington, to be removed and deposited in the capitol, at Washington city, in conformity with the resolution of Congress of the 24th December, 1799; and that if they obtain the requisite consent to the removal thereof, they be further authorized to cause it to be removed and deposited in the capitol, on the 22d day of February, 1832.

Resolved, That the President of the Senate and Speaker of the House of Representatives be also authorized to prescribe the order of such ceremonies as they may deem suitable to the occasion, of the interment of the body of George Washington, in the capitol, on the day above mentioned; and that the two Houses of Congress will attend and assist in the performance of those ceremonies.

Mr. THOMAS observed that, according to the ordinary rules of the House, the resolution was required to lie for one day upon the table; but as the time remaining for its execution was short, it would be proper, if the House acted upon it at all, to do so immediately, and he therefore hoped that, by unanimous consent, the resolution would now be taken up, and acted upon.

The suggestion of Mr. THOMAS being agreed to by the House, the resolution was thereupon read; and the question being on the House concurring therewith,

Mr. MCCOY, of Virginia, addressed the House in some remarks, which, owing to his remote situation, and the feebleness of his voice, were very imperfectly heard. It had been his misfortune to be placed upon the committee who had made this report, and to disagree with the majority as to its propriety, and the more he reflected upon the subject, the more he was confirmed in his dissent. For what purpose but that of a vain show were the remains of General Washington to be removed from the place which he had himself selected to receive them? Was it that the capitol would be in the place of a vast monument over his bones?

This vast monument had nearly been destroyed during the last war. That was one reason why he should be opposed to placing them here. He had another reason. If the good people of Virginia had wished that those remains should be removed, they would have done it by the authority of their own State Legislature. It had been said that Congress was called to redeem the pledge which they had given in 1799; but if that pledge was binding, why had it never been redeemed before now? And he would ask, where was the stopping place should Congress commence with celebrating the birthday of this distinguished individual? It would be manifest that there could be no stopping place. It would, he supposed, be insisted that Congress were bound to carry the resolution of 1799 into full effect. But the Congress of 1799 had set many precedents which he did not hold himself bound to follow. Among others, the sedition law, and alien law, and divers others which the good people of the United States were not well pleased with. These were the reasons for which he was opposed to disturbing the remains of the venerable patriot.

Mr. MERCER, of Virginia, rose in reply, and said, that, as to the precedents which had been set in 1798 and 1799, he was not responsible; for so far as he was concerned, he had been adverse to both the obnoxious laws referred to by his respected colleague; but the connection of those precedents with the resolution which it was proposed to carry into effect, was quite too remote, to make it proper to refer to them on the present occasion. A more proper reference would have been to the unanimity of the vote which passed without a dissenting voice at that mournful period which bedewed this land with the tears of the children of Washington. Such was the universal grief, that every individual in the country sought some way of giving expression to it. It was expressed publicly, in solemn assemblies of the people, and in private, by the almost universal adoption of some outward token of mourning in the dress of both sexes. All were unanimous in declaring their sorrow for the loss of him of whom it had justly been said that he was "first in war, first in peace, and first in the hearts of his countrymen." Mr. M. earnestly protested against all reference to the politics of the day, which was marked by his untimely death. He called it so, for it was untimely, whether regard was had to the age, strength, and health of his frame, or to the interests and fondest wishes of his country. Mr. M., however, had not risen, he said, for the purpose of making these remarks, but to correct his colleague in another respect—in a statement which, if it had been correct, would induce him to agree in opposing the resolution. His colleague had referred to the wishes of the people of Virginia; but Virginia had not been unmindful of what she owed to the memory of the greatest of her sons. In the year 1816, a proposition had passed both branches of her Legislature, to remove the venerated remains of Washington, and to deposit them beneath a suitable monument in Richmond; but when the resolution to that effect had been submitted to the surviving head of the family, the late Judge Bushrod Washington, that gentleman entertained the opinion that the removal was inhibited by the disposition which Washington had made of his own remains.

Mr. GORDON, of Virginia, expressed his deep regret that, on an occasion like this, there should be any division of sentiment amongst those who were called to celebrate the birthday of the most illustrious of our citizens; and he could not but think that there would have been a unanimity more worthy of the occasion, had not the Select Committee thought proper to introduce a resolution, calculated in its very nature to produce division. The question it involved had from the beginning been an exciting and a dividing question. General Washington had died in the bosom of his family, after a long life, glorious to himself, to his country, and to mankind. He had been buried upon his own estate, amidst his own connections, by his family and his neighbors; and what was now proposed to be done? To violate the sanctity of the grave; to take his bones from their honored deposit, and translate them to another spot.

Mr. G. said he knew it had been common, when our heroes had perished in foreign lands, to redeem their bones by a national act from the estrangement into which they had been accidentally thrown. But he suspected that the present was the first intance, when it had been proposed or was thought of, to take their remains from the home of the deceased, and from his native soil. And for what? For a monument to his memory? Had it not been once said of an illustrious foreigner that "all Florence was his monument?" And might it not with equal truth and force be asked, is not this city a monument to Washington? Nay, we might ask, was not the entire country his monument? and her liberty and happiness his best, his noblest memorial? He must disagree with one of his colleagues (Mr. MERCER) in the sentiment that the removal of the ex-animated bones of the patriot would have any great efficiency toward cementing the union of the States. The way to cement the Union was to imitate the virtues of Washington; to remove not his body, but, if possible, to transfer his spirit to these Halls. Gentlemen could not suppose that the mere removal of his dust would infuse into their breast any higher veneration for his virtues. Let it rather be their part, instead of disturbing his bones, each to go to the altar of his country, and swear to imitate the example of Washington. Besides, there was another aspect of the subject, which though he was sorry to advert to, yet, as a Virginian, he could not for his soul repress; Congress had no right to remove that dust. Washington had given his life to the United States, and Virginia rejoiced to remember it. But his

bones belonged to her soil. Her sons honored the spot where they reposed, and they thought that that was a spot where, if anywhere, union and peace should ever dwell. The act proposed in the resolution was but a vulgar honor. It degraded Washington to the measure of little men, who needed a monument to preserve their name. Since the art of printing had been invented, pillars and monuments were but idle records. Letters were the best, the enduring monument. They held the name and the deeds of Washington, and would hold them forever; and it was vain to attempt by an empty pageant, unchristian in its character, and every way in bad taste, to add any thing to Washington's immortality. Such a celebration would be sure to dissatisfy the people of his native State. In a great association of republics such as ours, the best and fairest competition was this: who should furnish citizens most devoted to their country; who should be farthest from that selfishness which degrades a patriot. Let such be our emulation, and let the virtues of Washington be set before us as our model. If we practise these, then will our union be immortal. But let not the House, by separating the remains of Washington from his own beloved State, and making them an object of the vulgar gaze, seek to gratify men who could never be moved by a consideration of his great example.

Mr. COKE, of Va., said it had not been his intention to trouble the House with any remarks upon the subject, because he was adverse to a protracted debate on a question where the vote, he had thought, should be both immediate and unanimous. His feelings, however, had controlled that intention, for he could not reconcile to himself silence on such an occasion. He begged the House to pause in the matter, and reflect upon the operation of the resolution upon the feelings of Virginia, before it came to a determination to remove the mortal remains of Washington from the last home which those remains had found in the soil of that State. He would beg them, in language of the most earnest supplication, not to give their sanction to the proposition. For his own part, he could scarcely give utterance to his feelings in regard to it. He felt as if he, as a Virginian, and the State of which he was a native, were on the verge of losing something in comparison with which all the riches of the world would, in his and her estimation, weigh but as dust in the balance, and he begged them, under the influence of such a feeling, whilst the sad decree was yet unexecuted, to refrain from depriving them of that which was beyond all price. The proposition contained in the resolution was to remove the ashes of George Washington. That illustrious man was a native of Virginia; his life and his services had been devoted to the common cause of his country; to those services, and to that life, his whole career showed that the country was welcome; but he (Mr. C.) implored them in the name of God not to deprive the land which had given him birth, and which was justly proud of his virtue and renown, of the last consolation of being the depository of his bones. He begged the House to make allowance for the feelings of Virginia in this matter. There were at the present time, in the flag of the confederacy, the glittering stars of twenty-four sovereign and independent States; but the time might perhaps arrive, when, at some distant period, those stars should be dimmed of their original brightness, and present to the view twenty-four fragments of a great and powerful republic, warring the one with the other. At that lamentable time, then, he would ask should Virginia, in offering homage to the memory of the mighty dead, be forced to pay a pilgrimage to the remains of her own son through scenes of blood shed perhaps by kindred hands? But why should it be wished to strip Virginia of the last sad relics of him who stood preëminent among the wise, the virtuous, the patriotic, and the brave? Virginia did not desire the removal of his remains from her own land. Already had preparations been made to transfer his honored dust to Richmond. The vote of a Virginia Legislature had provided for this event, and a fund had been accumulated to carry her resolutions into effect. Why should Congress anticipate the wishes of those who knew him best, who most appreciated his worth, and who were above all others disposed to pay honor to him as one of themselves? It was, he repeated, the first wish of Virginia to enshrine his remains in her own capitol.

Mr. DEARBORN, of Massachusetts, said he had been gratified by the patriotic opposition of several of the members from Virginia to this proposition; he was not surprised at their reluctance to part with the remains of their departed hero. But whatever claim might be asserted by the State of Virginia, it was certain that the United States owed a debt of gratitude paramount to that of Virginia. Those who were not citizens of Virginia, wished the interment of those remains in common ground, which equally belongs to the whole United States. We did no wrong to Virginia in discharging this duty which had been too long postponed. History shows us no nation that has not been ambitious to commemorate the great deeds of their illustrious citizens. There is no security that Mount Vernon will remain the property of the present family. Such is the state of our laws, that it may be sold at auction, and those sacred remains may be purchased by a foreigner. He wished something done that might effectually guard against such events. He wished those remains might be placed under the protection of the whole nation. So far from regarding this step as sacrilegious or unchristian, as it had been termed, he considered it one of the highest acts of christianity and virtue to commemorate the merits of departed worth. A monument was of no consequence to Washington. He might have

declined such an honor, had he been consulted during his life. But does this consideration absolve us from our duty? It was for ourselves and our posterity that a permanent monument should be erected—a point to which our children might be instructed to look up, and to emulate the virtue of the man in whose honor it was established.

Mr. E. EVERETT, of Massachusetts. I do not rise to make a speech on this occasion; but to say a very few words, chiefly in reply to the gentleman from Virginia, (Mr. MCCOY,) who opposes the passage of this resolution. One of his objections was, that the resolution of 1799, proposing the removal of the remains of Washington to the capitol, was one of the bad precedents set by the Congress of 1799. I was very sorry to hear such an allusion from so respectable a source. The gentleman must have forgotten that the resolution of 1799, instead of being one of the measures to which he alluded, as dividing the opinions of the country, and on which a majority of the people dissented from the majority of that Congress, was a measure in which that Congress was unanimous. In a time of as great political excitement as probably ever existed, when the parties in Congress and in the country were exasperated against each other, to a degree never surpassed, if ever equalled, every member of that Congress gave his vote for that resolution; and it was probably the only subject, in the wide compass of human feeling and action, on which that Congress could have voted as one man. And yet the gentleman classes a resolution, thus passed, and for the purpose of doing honor to the memory of Washington, with those measures of a political character, which divided Congress and distracted the country.

But it is said we are going to violate the repose of the dead; to break into the sepulchre, and rifle it of its precious deposit. Sir, do we do any such thing? Shall we not go to that venerated tomb, with every possible warrant both of authority and delicacy? Was not the consent of the consort of the father of his country obtained, at a moment when her feelings were bleeding under the recent loss of the illustrious partner of her life? Fortified with her consent, deliberately given, and at that moment, who shall question the right or the propriety of the procedure? Violate the repose of the grave! Sir, we are discharging towards that sacred depository a most imperative duty. If there is one darker spot in the history of this Union than another, it is that we have left so long unredeemed the solemn pledge which was given by the people of America, through their representatives here, in the first moments of bereavement. Violate the repose of the dead! Sir, we are going to pay a tribute of respect to the ashes of the father of his country, such as the history of the world cannot match with a parallel. If this resolution is adopted, and on the 22d of February the remains of our beloved hero and patriot shall be removed from Mount Vernon to this capitol, it will be a transaction of a character of extraordinary solemnity, grandeur, and interest. Such a procession as will be formed to receive these sacred remains, the multitudes of old and young—the constituted authorities of the nation, the citizens of this District, and of the neighboring region, who shall assemble to witness the awful spectacle of the remains of the father of his country, on their way to their resting place beneath the foundation of this capitol—all this, sir, will constitute a transaction unexampled in the history of the world for its effects on the minds and hearts of those who may take part in it, or witness it.

I agreed more with a gentleman from Virginia, (Mr. COKE,) who said he rose to co-operate with his colleague, (Mr. GORDON,) than I did with that colleague, who complained that we were going to break in upon the repose of the grave. The gentleman (Mr. COKE) was willing to open the sacred portals of that grave, and remove its deposit, not indeed to this capitol, but to Richmond. Now, sir, I cheerfully admit, that of the titles of Virginia to the respect and consideration of her sister States, it is among the first, that she is the parent of our Washington. But let her not forget that, though Washington was by birth a native of the colony of Virginia, he lived and died a citizen of the United States of America; united more by his labors, counsels, and sacrifices, than those of any other individual. The sacred remains are, as the gentleman well said, a treasure beyond all price, but it is a treasure of which every part of this blood-cemented Union has a right to claim its share.

The gentleman from Virginia (Mr. MCCOY) asked, if we begin this way, where shall we end? Sir, I wish it might even become more difficult to answer that question. I wish it may even be hard to say, where shall we end with these testimonials of respect paid to a worth like that of Washington. Be it, sir, that we know not where we shall end. I know where we ought to begin, and that is, with the man who was "first in war, first in peace, and first in the hearts of his countrymen." Sir, I will begin with him. If, hereafter, another shall arise, who will live like Washington, when he dies, let him be laid by his side.

Mr. THOMPSON, of Georgia, said that he had to perform what he was apprehensive would by some be considered an ungracious task; for, like the gentleman from Virginia, (Mr. MCCOY,) who first addressed the House, he, too, was unfortunate enough to be a member of the committee who reported the resolution now under consideration. Unfortunate, he said, because, as he heretofore had been, and now was opposed to the proposition contained in this resolution, he ought, perhaps, to have asked to be excused from serving on the committee when it was announced. But, said he, the novelty of the proposition, as connected with the centen-

But, said Mr. W., not only is the present increase expedient. I consider it a positive necessity arising from our form of Government, and purely incidental to the expansion of our population, and of the vast interests involved therein. It was aptly and profoundly remarked by the honorable gentleman from North Carolina, (Mr. WILLIAMS,) that the bill before the House involved the fundamental principles of our Government, and as such it ought to be approached. I agree altogether with the honorable gentleman, and as such only can I consent to approach it. In vain have I endeavored to discover a single argument calculated to invalidate this position of the friends of a low ratio. Objections have been urged against increase, arising from the form and construction of this Hall. I agree with my honorable friend from North Carolina, (if by that title he will allow me to call him,) that it would be better, far better, to level this splendid edifice to the ground, rather than let it stand an obstacle in the way of a full representation of the whole people of this Union. Better, sir, revert to the primeval simplicity of our Saxon ancestors of old, or our red brethren of the far West, and meet in our "council of wise men," under the broad canopy of heaven.

The question was taken on striking out forty-eight thousand, and inserting forty-four thousand, and decided in the negative—yeas 88, nays 102.

WEDNESDAY, February 8.

Report on the Tariff.

Mr. MCDUFFIE, from the Committee of Ways and Means, reported the following bill:

A Bill to Reduce and Equalize the Duties on Imports.

Be it enacted, &c., That, from and after the 30th day of June next, there shall be levied, collected, and paid, on all iron and steel, salt, sugar, cotton bagging, hemp, flax, and manufactures of iron, cotton, and wool, imported into the United States, duties of twenty-five per centum ad valorem, and no more, until the 30th of June, 1833; after which, the said duties shall be eighteen and three-fourths per centum ad valorem, and no more, until the 30th of June, 1834; after which, the said duties shall be twelve and a half per centum ad valorem, and no more.

And be it enacted, That, from and after the 30th day of June next, there shall be levied, collected, and paid, on all other merchandise imported into the United States, twelve and a half per centum ad valorem, and no more; except such articles as are now imported free of duty, or at a lower rate of ad valorem duty than twelve and a half per centum.

The above bill (which was twice read and committed) was accompanied by a report of considerable length. When it was announced,

Mr. INGERSOLL said he would avail himself of the present moment to state to the House that he differed *toto cælo* from the majority of the committee by whom the report had been made. It was true he stood in a small minority in the Committee of Ways and Means on this question, only one gentleman, the honorable member from Pennsylvania, (Mr. GILMORE,) agreeing with him in committee in regard to the protective policy of the country. He had heard the report read but once, and had no opportunity to examine it before its introduction; it was a long manuscript of some thirty pages, and further time would be necessary before the minority would be able to prepare a counter report, expressing their views, which they intended to do hereafter. He considered the principles of the report and the accompanying bill as aiming at the subversion of the manufacturing interests, the great mechanical interests, and, he might add, the navigating interests too, at least so far as the fisheries are concerned, for the levelling doctrines put forth make no distinction on the rate of duties on any kind of imports, however they might bear on either of those great interests referred to: all were brought down to twelve and a half per cent., thus uprooting the earliest and wisest policy of the republic. He felt, therefore, bound, in common with his friend from Pennsylvania, (Mr. GILMORE,) to meet the report with a protest at its first introduction here, as they had done in the committee room, and should reserve to himself and his associates who went with him, the right of presenting their objections more in detail hereafter, and in a more formal manner.

MR. VERPLANCK remarked that he, too, as a member of the Committee of Ways and Means, must ask to be indulged in the same privilege which he had just claimed for one of his colleagues on the committee, and to express his own dissent from the report just made by their chairman. It, however, was his misfortune on this occasion to occupy a singular and solitary position on the committee, differing very widely from the views of those with whom he had often before acted on similar occasions, without agreeing with the principles and objects of that minority who ably represented the manufacturing interests. The report made by the chairman, and in which the three Southern members of the committee had concurred with him, contained many principles and arguments in which, said Mr. V., I fully agree; but I must wholly protest against much of it, which represents the great burden of the existing tariff laws as falling almost exclusively in heavy taxation upon the planting or cotton exporting States, whilst the Northern and Middle States receive from it nothing but benefits. I cannot assent to any report on this subject, which denies or omits to notice the heavy weight laid by an extravagant and ill-judged tariff upon the free laborer of the North; the effect produced in diminishing the real reward and wages of free labor; to say nothing of its operation upon commercial enterprise. If I could think that my opinions on these and other points on which I differed from my colleagues on both sides of the

committee, were in any sense original or peculiar, I could not have thought of indulging any pride of opinion, by thus obtruding them upon the House. But I am confident, that if alone in these views in the committee room, I am not so in this House. At any rate, I am sure that I express the conviction of a numerous and intelligent body of my own immediate constituents, and of no inconsiderable number of other valuable citizens of the State I, in part, represent.

Still this report contains much higher matter —many weighty opinions and arguments lucidly and powerfully urged—arguments that, if erroneous, (as I think they partly are,) are yet entitled to the most serious consideration of the people of this Union, as expressing the deliberate and deep-felt convictions of a great body of their brethren. It is for these reasons that I shall, as soon as it is in order, move for the printing of five thousand additional copies for distribution. In the mean time, I must make this personal protest as to much of its doctrines, reserving to myself the right of doing it hereafter in a more formal manner, by a counter report, or upon the floor of this House.

In regard to the bill accompanying this report, I feel it my duty to add that I did not agree to the expediency of introducing it in this form, whatever I might have thought of it theoretically, and under other circumstances. From the low point of final reduction proposed, the rapidity of reduction, and the sweeping extent of its operation, it does not seem to me to offer any satisfactory basis for the adjustment of that disturbing question which threatens to rend this nation. For such an adjustment I had hoped at the beginning of this session. I still hope for it, though often fearing that I am hoping against hope. Yet I do still look around me, and especially to some parts of this House —[here Mr. V. appeared to address the chairman of the Committee on Manufactures]—with the strong hope of yet participating in a course of legislation conceived in the spirit of peace, and resulting in peace. Until then I must protest against being considered a party to any measure or any expression of opinion calculated to prevent or delay such measures.

The report was then ordered to be printed.

Report on Steam Carriages.

Mr. MERCER, from the Committee on Roads and Canals, reported the following resolution:

Resolved, That the report of a Select Committee of the House of Commons of Great Britain, bearing date October 12th, 1831, on the use of steam carriages on common roads, with the minutes of evidence, and appendix attached thereto, be printed.

Mr. SPEIGHT was not disposed to cavil at any means by which information might be afforded to the House; but when called upon to vote away a portion of the public money for the purpose of printing a work, he thought it due to himself, and to those whom he represented, to ascertain what was the value of the work to the public, for which a disbursement of the public money was sought. He should like the work in question to be laid on the table, that members might have an opportunity of examining and judging for themselves as to the propriety of making an appropriation of the public money for the purpose of printing it.

Mr. MERCER said that the information contained in the report could not be otherwise obtained at an expense short of three thousand dollars. It was a proposition of the Committee on Internal Improvements, not one of his.

Mr. HOWARD suggested to the gentleman from Virginia the propriety of amending his motion, so as to have an extra number of copies printed.

Mr. MERCER said that, acting under the orders of the committee, he could not at that time offer such an amendment; when the copies ordered, however, should be supplied, a motion might be made for printing an extra number, if gentlemen thought proper.

Mr. MITCHELL was quite as anxious that the House should be well informed on every subject as any gentleman on that floor; but he thought they might as well publish a book on mathematics at the public expense, as the subject before them. He thought they could only authorize the printing of such works as sprung immediately out of subjects before the House; and such was not the case with the report in question.

Mr. EVERETT would offer one or two observations. It was but a week since that the Committee on Foreign Affairs had moved for the printing of a report of a committee of the British House of Parliament on the subject of the cholera morbus; and a gentleman from New York had subsequently moved the printing of a number of extra copies. No gentleman had, on those occasions, objected to the constitutionality of appropriating public money for the printing of works on medicine or nosology. He would not be understood to place those matters which affected the health or life of the community, on a parity with those relating to internal improvements; but it must be admitted that every thing which could facilitate the latter, was of great interest and importance to the whole commonwealth.

Apportionment Bill.

The question depending at the time of adjournment yesterday was on striking out the ratio of 48,000, and inserting 45,000.

The question upon this amendment was forthwith taken without debate, and decided in the negative—yeas 68, nays 118.

Mr. DODDRIDGE moved to strike out 48,000, and insert 46,000.

This motion was also negatived—yeas 71, nays 116.

Mr. VANCE then moved 44,400 as a substitute for the ratio of 48,000.

Mr. ADAMS, of Massachusetts, then rose, and addressed the House as follows:

the letter of the President of the United States, and the answer of Mrs. Washington, yielding her assent to the wishes of Congress on this subject. I ask this, said Mr. W., not because I have not been familiar with them myself, but possibly there may be those in this House, certainly many in this nation, who have not seen or read that portion of our legislative history, and may not, therefore, duly appreciate the obligation of this Government, which it was the purpose of the resolution to discharge.

The Clerk read the resolutions as follows:

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That a marble monument be erected by the United States, in the capitol, at the city of Washington; and that the family of General Washington be requested to permit his body to be deposited under it; and that the monument be so designed as to commemorate the great events of his military and political life.

"*And be it further resolved*, That the President of the United States be requested to direct a copy of these resolutions to be transmitted to Mrs. Washington, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence on the late afflicting dispensation of Providence; and entreating her assent to the interment of the remains of General George Washington, in the manner expressed in the first resolution."

"*Gentlemen of the Senate, and*
Gentlemen of the House of Representatives:

"In compliance with the request in one of the resolutions of Congress of the 21st of December last, I transmitted a copy of those resolutions by my secretary, Mr. Shaw, to Mrs. Washington, assuring her of the profound respect Congress will ever bear to her person and character; of their condolence in the late afflicting dispensation of Providence; and entreating her assent to the interment of the remains of General George Washington, in the manner expressed in the first resolution. As the sentiments of that virtuous lady, not less beloved by this nation, than she is at present greatly afflicted, can never be so well expressed as in her own words, I transmit to Congress her original letter.

"It would be an attempt of too much delicacy to make any comments upon it; but there can be no doubt that the nation at large, as well as all the branches of the Government, will be highly gratified by any arrangement which may diminish the sacrifice she makes of her individual feelings.

"JOHN ADAMS.

"UNITED STATES, *January* 6, 1800."

"MOUNT VERNON, *December* 31, 1799.

"SIR: While I feel, with keenest anguish, the late dispensation of Divine Providence, I cannot be insensible to the mournful tributes of respect and veneration which are paid to the memory of my dear deceased husband; and, as his best services and most anxious wishes were always devoted to the welfare and happiness of his country, to know that they were truly appreciated and gratefully remembered, affords no inconsiderable consolation.

"Taught by that great example which I have so long had before me, never to oppose my private wishes to the public will, I must consent to the request made by Congress, which you have had the goodness to transmit to me; and, in doing this, I need not, I cannot, say what a sacrifice of individual feeling I make to a sense of public duty.

"With grateful acknowledgments and unfeigned thanks for the personal respect and evidences of condolence expressed by Congress and yourself, I remain very respectfully, sir, your most obedient, humble servant,

"MARTHA WASHINGTON."

Mr. Speaker, under the order of this House, a committee of a member from each State was directed to make the arrangements necessary for the celebration of the approaching anniversary of the birth of General Washington. The first time, in the history of this Government, that order has been taken by Congress to celebrate this or any other day.

The resolution had passed without opposition or objection, clearly indicating the undivided opinion of members that it was suitable and proper Congress should pay some respect to the one hundredth anniversary of that man whose life filled his country with so many blessings, and who had given joy to the grateful hearts of millions of freemen, and whose death had clothed a nation in mourning.

What was the celebration desired by this House? Did gentlemen suppose it would have been becoming in the committee to recommend "a national festival," at public expense? No such measure has engaged the attention of the committee.

The report upon your table, sir, has informed you that the committee united upon the propriety of having delivered on the occasion an oration by the man who seemed to be the only one living at this day to whom we were willing to consign the character of General Washington for such a purpose. That measure having failed of success, the committee next resolved to recommend the performance of divine service in the capitol on that day. This, however appropriate, did not, in my opinion, seem calculated to meet the expectations of the House, or equal those which might be created elsewhere by the joint resolution of Congress, and the appointment of a representative from each State upon this committee. The duty which had been assigned that committee, I admit, referred itself to the birth of General Washington. The circumstances of his death, the loss which his country sustained thereby, and the recollection of witnessing in my boyhood the deep gloom which pervaded the Western wilds, and the sadness which reigned in every hamlet upon its annunciation, called to my mind the resolution by which our country proposed to do itself so much honor. I thought the present a fit occasion, suitable, in every way, to do what our predecessors had promised, by a solemn act of legislation, to do, and which, I admit, ought to have been done long since.

I was unable to find that Congress had ever

refused the execution of the resolution of 1799 by any vote. I could not learn that the assent of Mrs. Washington to the wishes of her country, expressed in terms which did her so much honor, had ever been withdrawn by her or by any member of the family. Under these circumstances, Mr. Speaker, I had the temerity to introduce this subject to the notice of the committee, which, I was pleased to find, met its approbation. The committee now rightfully assume all the responsibility incident to the measure proposed. And, for one, I am willing to meet it here and before the people.

The committee was charged by the gentleman from Virginia (Mr. GORDON) with having proposed a measure which directed Congress "to invade the sanctuary of the dead, and with sacrilegious hands drag its sacred deposit from its native soil." Sir, did the honorable member reflect that this charge reached back upon the Congress of 1799—that it fell with its intended force upon those who had prepared this measure—at the head of whom stands that distinguished son of Virginia, the present Chief Justice of the United States?

To the execution of this measure in 1799 had been yielded the assent of Mrs. Washington, the person above all others most competent to decide upon its propriety: still it was proposed to act only by the consent of those upon whom the care of the remains of Washington had devolved. Are we then to be charged with invading the sanctuary of the dead, and with sacrilegious hands wresting a sacred deposit from its native soil?

Mr. Speaker, the gentleman from Georgia (Mr. THOMPSON) had spoken of the possibility, nay, the probability of the disunion of these States. Sir, the sacred name of Washington should never in debate or in thought be connected with the idea of a dissolution of this happy Union. Disunion of these States, sir! I will not permit my mind to dwell on so dire a calamity; it never can happen while the name of Washington is spoken and his memory revered.

Mr. HUNT, of Vermont, observed that, as he was one of the joint committee that made the report, he desired to submit some few remarks. The resolution, said Mr. H., contemplates the erection of no marble monument, it authorizes no violation of the sepulchre, nor the rights of Virginia, or any individual State, which some gentlemen so feelingly deprecate; but it simply proposes a tribute of grateful respect to the memory of the great benefactor of our common country. I am well aware, sir, that no ceremony which we can perform will contribute any thing to the fame of Washington, or endear him more to the hearts of his countrymen. There is, however, a debt of national respect and gratitude to be paid, and a solemn pledge to be redeemed, by carrying into execution the resolve of Congress, unanimously adopted in 1799, soon after his decease, and in accordance, too, with the general sentiments of the nation, of removing his remains, by the express consent of his bereaved widow, given upon the request of Congress, and of depositing them within the capitol of this great empire, of which it may be said that he himself was the illustrious founder. No act can be done by the Government that would have so deep and permanent a moral influence in uniting the people and cementing the union of this confederacy, as the placing of these sacred remains at the base of this durable edifice, so that it may serve not only as the seat of national legislation, but as the mausoleum of the father of his country. The same pure feelings of veneration which dictated and responded to the resolutions of '99, still continue alive and unabated throughout the country, and a more propitious time for executing the duties of that resolve will never hereafter occur. The twenty-second of this month numbers one hundred years since the birth of George Washington, and the intelligence from all parts of the country informs us that preparations are making to commemorate this anniversary with all the solemnities and festivities which the occasion must naturally inspire. Congress seems now to be invoked, by the impulse of public feeling, to execute the sacred trust especially committed to its care, and to manifest the tribute of a nation's gratitude, too long neglected, to that great and good man to whom we are so signally indebted for our liberties, and for the free and happy Government under which we live. He fervently hoped the resolution would be adopted.

Mr. MCDUFFIE, of South Carolina, said that this was one of those occasions on which he would make his judgment take counsel from his feelings. Adopting this criterion, he could not approve of the proposition which had been made, but contemplated it with shuddering and abhorrence. He could not but regard the proposed removal as a species of sacrilege. He differed entirely from the honorable gentleman from Virginia, (Mr. MERCER,) in regard to the interpretation of General Washington's will; while the gentleman himself admitted that he differed from one who ought to be the best expositor of the will, the late lamented Judge Washington. The Judge's interpretation of that instrument was, in Mr. McD.'s opinion, the true one. He would call the attention of the House to the terms of that clause which related to the interment.

[Here Mr. McD. quoted General Washington's will.]

Such, said he, is the will of Washington. This is the will of that most illustrious but modest man, with regard to the disposition of his own remains. Those remains had been deposited in strict conformity with it, and there they still remained peaceably reposing in the family burying ground. Yet, in open defiance of this express provision of the will of the deceased, the House was called upon to disturb his "canonized bones," and tear them from the cemetery which they had consecrated, for

the mere purpose of ostentation. God forbid that these hallowed relics, now lying in a spot which—do what gentlemen might—would be consecrated through all time, should be torn from those of his beloved consort, and exhibited at this place as a mere pageant, for the idle to gaze upon. Let us have no pageantry—no empty show, on such a subject. He was sure he spoke for all who heard him, when he said, "I have that within which passeth show." As to a monument, cried Mr. McD., rear it. Spend upon it what you will. Make it durable as the pyramids—eternal as the mountains—you shall have my co-operation. Erect, if you please, a mausoleum to the memory of Washington in the capitol, and let it be as splendid as art can make it; but, in the name of all the christian charities, do not violate his tomb.

Mr. DRAYTON, of South Carolina, said: I entirely concur with my colleague, (Mr. McDUFFIE,) that we ought not to interfere with the will of General Washington. When he directed that his body should be buried at Mount Vernon, he acted in conformity with his character, which was as distinguished for retiring modesty, as for higher and loftier endowments. He would not, living or dying, obtrude himself upon the public notice. He therefore provided for his interment, in the manner which is customary. His will, in this respect, has been fulfilled; and his remains were attended to the grave by his family, his friends, and his neighbors, with the unostentatious ceremonies of a private funeral. Had he foreseen that the Federal Legislature would desire to dispose of his relics in a mode more suitable to his name and his fame, the whole tenor of his life forbids the presumption that he would have opposed their wishes, even though they might have been at variance with his own. In obeying the dictates of gratitude for his services, and of veneration for his memory, we cannot, then, be justly charged with indecently violating the sanctuary of the grave, and disregarding the injunctions of the deceased.

The delegates from Virginia, who object to the removal of the bones of their illustrious fellow-citizen, however natural and honorable may be their motives, appear to be influenced rather by their feelings than by their judgments. Whilst Washington, doubtless, was sincerely and strongly attached to the soil of his nativity, his great moral and intellectual faculties, his achievements in war, and his counsels in peace, were dedicated to the advancement of the interests and to the increase of the glory of his entire country. As the Union received the benefit of his labors and his talents, the representatives of the Union ought to express their sense of them, in the most solemn manner of which they are capable. Virginia will not be wronged by our reverential tribute to her son. Wherever his ashes may repose, it will be remembered that to her we are indebted for a Washington; and whenever his virtues and his exploits shall be celebrated by the orator and the bard, they will not be unmindful that Virginia, the fruitful mother of illustrious men, was also the parent of Washington.

After a few additional observations from Mr. McCOY, of Virginia, the question was taken on the resolutions, and decided in the affirmative—yeas 109, nays 76, as follows:

YEAS.—Messrs. Adams, Chilton Allan, Anderson, Appleton, Archer, Armstrong, Arnold, Ashley, Babcock, Banks, N. Barber, Barringer, I. C. Bates, Beardsley, Bell, Boon, Briggs, John C. Brodhead, Bucher, Bullard, Burd, Burges, Cahoon, Cambreleng, Choate, Condict, Condit, Conner, Eleutheros Cooke, Bates Cooke, Corwin, Coulter, Craig, Crane, Crawford, Creighton, John Davis, Dearborn, Denny, Dickson, Doddridge, Drayton, Ellsworth, George Evans, Edward Everett, Fitzgerald, Gilmore, Grennell, Harper, Heister, Hodges, Hogan, Holland, Howard, Hughes, Hunt, Huntington, Ihrie, Ingersoll, Jarvis, Richard M. Johnson, Kavanagh, Kendall, Henry King, Kerr, Leavitt, Letcher, Marshall, McKennan, Mercer, Milligan, Thomas R. Mitchell, Muhlenberg, Newton, Pearce, Pendleton, Potts, John Reed, Russell, William B. Shepard, Slade, Smith, Southard, Spence, Stanberry, Stephens, Stewart, Sutherland, Taylor, Francis Thomas, Philemon Thomas, Tompkins, Tracy, Vance, Verplanck, Vinton, Ward, Wardwell, Watmough, Wayne, Wilkin, Elisha Whittlesey, Frederick Whittlesey, Campbell P. White, Edward D. White, Wickliffe, Wilde, Worthington, Young—109.

NAYS.—Messrs. Alexander, Robert Allen, Angel, John S. Barbour, Barnwell, Barstow, J. Bates, Bergen, Bethune, James Blair, John Blair, Bouck, Bouldin, Carr, Carson, Claiborne, Clay, Clayton, Coke, Collier, Cooper, Davenport, Warren R. Davis, Dayan, Dewart, Doubleday, Horace Everett, Felder, Foster, Gaither, Gordon, Griffin, Thomas H. Hall, William Hall, Hawes, Hawkins, Hoffman, Horn, Isacks, Jewett, Cave Johnson, Charles C. Johnston, Adam King, John King, Lamar, Lansing, Lecompte, Lewis, Lyon, Mann, Mardis, Mason, Maxwell, McCarty, William McCoy, Robert McCoy, McDuffie, McIntire, Newman, Nuckolls, Patton, Pierson, Polk, E. C. Reed, Rencher, Roane, Root, Augustine H. Shepperd, Soule, Speight, Standifer, Storrs, Wiley Thompson, John Thomson, Wheeler, Williams—76.

So the House concurred with the joint committee in their report and resolutions.

TUESDAY, February 14.

Portrait of Washington.

Mr. JARVIS, from the Committee on the Public Buildings, reported the following resolution, the consideration of which was postponed until to-morrow:

Resolved, That the Clerk of this House be directed to employ John Vanderlyn, of New York, to paint a full-length portrait of Washington, to be placed in the Hall of Representatives opposite to the portrait of Lafayette; the head to be a copy of Stuart's Washington, and the accessories to be left to the judgment of the artist; and that the sum of one thousand dollars be appropriated from the contingent fund of the House, for the purpose of carrying this resolution into effect.

Statue of Washington.

Mr. JARVIS, from the same committee, reported the following resolution, which laid one day for consideration:

Resolved, That the President of the United States be authorized to employ Horatio Greenough, of Massachusetts, to execute, in marble, a full-length pedestrian statue of Washington, to be placed in the centre of the rotundo of the capitol; the head to be a copy of Houdon's Washington, and the accessories to be left to the judgment of the artist.

Washington's Remains.

Mr. ADAIR moved the following resolution:

Resolved, That the President of the United States, the Secretaries of State, of the Treasury, of War, and of the Navy, and the Postmaster General, be invited to attend at the ceremonies to be performed on the 22d of February instant, in honor of the memory of George Washington; and that the President be requested to superintend the deposit of the remains of the deceased in the place which has been selected for that purpose.

Mr. THOMAS observed that the gentleman had not yesterday been in the House, having been detained from it by indisposition, and was not probably aware that the arrangement proposed in his resolution was already within the power of the President of the Senate and Speaker of the House, who had been intrusted with a discretion as to the details of the removal of the remains. There could not be a doubt that those gentlemen would adopt a course similar to that now proposed; and therefore it would be unnecessary and improper to pass a separate resolution on the subject.

Mr. ADAIR, considering it more respectful to adopt the course he had designated, insisted on the propriety of the resolution.

Mr. ADAMS concurred in the sentiment expressed by Mr. ADAIR. A very solemn act was about to be performed on the part of the representatives of the people, and he thought it would appear better before the world, and before posterity, that these invitations should be given by a direct act of the House.

Mr. DRAYTON fully agreed in the opinion of the gentleman from Massachusetts. He was perfectly sure that not the least disrespect towards the President of the United States had been intended by the mover of the resolution; yet such an inference might be drawn on the part of the world. It was a great occasion—such a one as would probably never occur again; and he thought it not decorous in the House to leave to its presiding officer an act which had better be done by itself. It would be more respectful to the Chief Magistrate to adopt the resolution.

Mr. THOMAS said he withdrew all objections to it.

Mr. WICKLIFFE said that, considering the intimate relation which subsisted between the Chief Justice Marshall and George Washington, he would suggest to the mover of the resolution, whether it would not be proper to amend it by inserting the words "and the judges of the Supreme Court of the United States."

Mr. ADAIR accepted the modification; whereupon,

Mr. WICKLIFFE further suggested the propriety of adding the name of Charles Carroll of Carrollton, which was accepted in like manner.

Mr. ADAMS thought it might be proper to extend the limits of the resolution still further, and include the name of James Madison. He was not sure that it would be in the power of Mr. Madison to comply with the invitation; but, as the House was about to do honor to itself and to the nation, it was a mark of respect due to this distinguished citizen, to include him among those specially invited by its authority.

Mr. CARSON inquired whether it would not be proper, before inviting these individuals, to have a distinct understanding whether the survivor and heir of General Washington would consent to the removal of his body.

The CHAIR stated, in reply to this inquiry, that letters had been written that morning by the presiding officer of the Senate and himself, to ascertain whether such consent would be given.

Mr. ELLSWORTH thought there was no need of waiting on that account, since the fact itself, that such invitations had been given, might have an effect in rendering the survivor of the Washington family the more willing to consent to the removal.

Mr. E. EVERETT observed that the specification of certain individuals in this resolution might be supposed as intended to exclude all other persons. To prevent this, he thought it would be proper to give a discretion to the presiding officers, by the addition of some such clause as this, "together with such other persons as the President of the Senate and the Speaker of the House may think proper."

Mr. DRAYTON said that he understood such a discretion to have been already vested by the resolution formerly passed.

Mr. KERR suggested that it would be more proper to specify the relatives of the family.

Mr. EVERETT thought it would, and moved it accordingly.

Mr. CAMBRELENG said that he hoped he should not, in the motion he was about to make, violate the obligations of decorum, or be considered wanting in delicacy, when he suggested the propriety of extending the invitation in the resolution to the late President of the United States.

Mr. ADAMS said, that while he was grateful to the gentleman from New York for the motion which he had made, he must be permitted to request that he would withdraw it. He was sufficiently honored in the fact that such an invitation had been proposed; whatever he might have been, he held at present what he considered the most honorable station that could be conferred on him as one of the representatives

of the people of the United States. He repeated his request that the motion might be withdrawn; whereupon,

Mr. CAMBRELENG said that if such was the gentleman's wish, he should withdraw the motion, and he withdrew it accordingly.

The resolution, as modified, was then agreed to.

Mrs. Washington's Remains.

Mr. BATES, of Maine, said that when the subject of removing the remains of Washington had yesterday been under discussion, such had been his feelings that he could not have spoken one word. He had felt as if it was wrong to remove those relics; and one of the strongest objections in his mind was the idea of separating the dust of Washington from that of his beloved consort. He had since discovered, from records which he then held in his hand, that when Mrs. Washington consented to the removal of her husband's body, it was the distinct understanding, between her and the then President of the United States, that if his remains should be removed, her own should be laid beside them. He had opposed the motion yesterday, but since it had passed, he would to-day offer a resolution, the effect of which would be to prevent the separation to which he had alluded. He hoped it would receive the unanimous consent of the House.

Mr. BATES then offered the following:

Resolved by the Senate and House of Representatives, That the President of the Senate and Speaker of the House of Representatives be hereby authorized to make application to John A. Washington, of Mount Vernon, and to George W. P. Custis, grandson of Mrs. Washington, for the remains of Martha Washington, to be removed, and deposited in the capitol at Washington City, at the same time with those of her late consort George Washington, and, if leave be obtained, to take measures accordingly.

Mr. BELL, one of the committee of twenty-four, stated the express understanding of that committee that the remains of Mrs. Washington should accompany those of her husband.

Mr. WICKLIFFE, another member of the committee, confirmed this statement, and thought that part of the arrangements had best be left to the presiding officers.

Mr. MERCER, though he would have been contented with such a reference, thought, as the resolution had been brought forward, it ought to be adopted.

Mr. GRENNELL thought so too, but still hoped the mover would consent to withdraw it.

Mr. ADAMS hoped the resolution would pass. He confirmed the statement as to the understanding in the committee, and expressed his hope that, as the committee had been perfectly unanimous on this point, the House would be so likewise. The same reasons which had induced him to vote in favor of the former resolution, inclined him to support this, that respect might be shown, first to the illustrious individual himself, and then to all that surrounded and was most dear to him.

Mr. CRAWFORD thought the resolution ought to pass, as it would remove all doubt from the minds of the presiding officers as to the extent of their authority and duty.

Mr. ARNOLD was not opposed to the object of the resolution, but strongly in favor of it; yet he thought it ought to be incorporated in the same resolution which referred to the body of General Washington; that object, he hoped, might yet be effected by a reconsideration.

Mr. ADAMS observed, in reply, that the former resolution only went to carry into effect the resolve of Congress in 1799, and therefore it would be improper to include in it a reference to the remains of Mrs. Washington.

Mr. ARNOLD, hoping that if the former resolution were reconsidered, not only the second would be included, but that a unanimous vote might be obtained in favor of both, moved the reconsideration accordingly.

As the resolution had not been sent to the Senate, the motion was entertained by the Chair.

Mr. THOMAS opposed the motion to reconsider as being not only needless, but improper. The two resolutions ought not to be blended, but very properly followed each other.

Mr. THOMPSON, of Georgia, after some explanation of what passed in the committee of twenty-four, answered the gentleman from Tennessee, (Mr. ARNOLD,) that he was mistaken, if he expected to obtain a unanimous vote. He for one should vote to-day as he had voted yesterday, and for the same reasons.

Mr. A. H. SHEPPERD expressed his surprise at the difference of opinions entertained by the members of the committee. If not improper, it would be highly desirable to learn the views which the Vice President and Speaker entertained of the powers given them by the resolutions.

The SPEAKER said, as far as his own opinion was concerned, he had no hesitation in saying that the resolutions of yesterday were confined distinctly to the object of the resolutions of 1799, which related to the body of George Washington, and to that alone.

Mr. SHEPPERD urged this reply to show that the committee of twenty-four had been mistaken in their understanding of the matter, and he urged unanimity either in reconsidering the former resolution or adopting the present.

Mr. DEARBORN was opposed to the reconsideration, for the object stated by the gentleman from Tennessee, (Mr. ARNOLD.) A separate resolution like this would confer a higher honor on the remains of Mrs. Washington, than had ever, in the history of the world, been conferred on any female.

Mr. WILLIAMS said he hoped the gentleman from Tennessee (Mr. ARNOLD) would withdraw his motion.

Mr. ARNOLD refused to do so, and again urged the impropriety of separating the two

resolutions. If gentlemen chose to hold out in the negative, they might do so. But he knew of more than one who, having witnessed the expression of the will of the House, were desirous of altering their votes for the sake of unanimity.

Mr. SPEIGHT demanded the previous question, but consented to withdraw it to admit a brief reply from

Mr. THOMPSON; upon which, that gentleman vindicated the course he had pursued.

Mr. SPEIGHT renewed the call, but again waived it, to accommodate

Mr. BOON, who pledged himself to renew it, which he did, after a very brief explanation of his own conduct. The call for the previous question was seconded by the House—yeas 107.

When the main question was put on reconsidering, and lost without a count.

Mr. EVANS, of Maine, now moved the previous question on the resolution of Mr. BATES, but consented to withdraw the call, at the request of

Mr. KERR, who suggested the propriety of making the same application to the surviving relations of Mrs. Washington, in respect to her remains, which had been ordered to be addressed to the relatives of the General in regard to his. Mr. K. enlarged upon the manifest justice and propriety of such a course.

Mr. BATES accepted the modification of his resolution to meet the views of the gentleman last up, by adding the words "and of George W. P. Custis, grandson of Mrs. Washington."

The resolution was then carried without a count.

After the resolution had passed, Mr. KERR expressed a wish to withdraw the amendment he had submitted.

The SPEAKER informed him the resolution had passed, and had gone to the Senate for concurrence.

Apportionment Bill.

The House then resumed the apportionment bill—the question being on Mr. CLAYTON's motion to reconsider the vote by which a ratio of 48,000 was stricken out, and 44,400 inserted in lieu of that number.

Mr. POLK wished to have one vote more taken, and he would then, if it was negatived, submit. He moved that the bill be recommitted to a Select Committee, with instructions to insert 47,700 as the ratio, and this number would not increase the House more than half the number which would be the result from the adoption of 44,300.

Mr. ADAMS said, if he was disposed to protract the debate, he would vote for the amendment; but as the sense of the House had been twice taken, and as it was so thoroughly ascertained that 48,000 would not be exceeded, he hoped further attempts would not be made for a larger number; he would vote against the amendment as well as against the motion made by Mr. POLK to recommit, as he considered the objections against them both as strong as against any numbers submitted to the House.

The question was then taken on Mr. POLK's motion to recommit the bill to the committee, with instructions to insert 47,700 in lieu of 44,300; which motion prevailed, by—yeas 105, nays 91.

On motion of Mr. POLK, it was ordered that the committee should consist of seven persons; and Messrs. POLK, HOLLAND, THOMPSON of Ohio, J. KING, THOMAS of Louisiana, BARSTOW, and BUCHER, were appointed the committee.

Mr. VANCE moved that a statement of the several fractions, to be created by the adoption of 47,700 for the ratio, in each State, and read to the House, should be printed; which was ordered.

WEDNESDAY, February 15.

Apportionment Bill.

Mr. POLK, from the Select Committee to which was recommitted yesterday the bill for the apportionment of representatives according to the fifth census, with instructions to strike out 44,300, and to insert 47,700, reported the said bill, amended according to the said instructions.

Mr. WILLIAMS hoped he would not press the motion: the present subject might be postponed, and the appropriation bills taken up: he hoped never to see the previous question brought down upon the House, while deliberating on such a subject.

Mr. MCDUFFIE disclaimed all idea of forcing any gentleman into one course or another; the House would act freely.

The CHAIR suggested that the previous question would not accomplish the object the gentleman had in view. The report of the committee was in the nature of an amendment to the bill, and the whole subject would be open to discussion.

Mr. POLK rose to inquire whether the Chair had decided that after the House had instructed the committee to amend this bill in a particular manner, and the bill had been reported from the committee so amended, it was then necessary for the House to act upon the amendment.

The SPEAKER said that was the opinion of the Chair.

Mr. POLK said, with all deference to the Chair, he was bound to appeal from the decision.

The SPEAKER stated the principles upon which the decision was founded.

An animated discussion arose on the point of order, in which Messrs. TAYLOR, CARSON, WICKLIFFE, and EVERETT supported the decision of the Chair, and Messrs. MCDUFFIE and POLK advocated the views of the latter gentleman; but, before the question was taken on the appeal,

Mr. POLK said he was unwilling to occupy the time of the House by this incidental question, and though his opinion was unchanged,

he would withdraw the appeal, and move that the House concur with the amendment made by the committee.

The question recurred on concurring with the committee in their report, (viz. 47,700,) and was decided in the affirmative by—yeas 119, nays 75.

Mr. POLK then moved the alterations in the residue of the bill which was rendered necessary by this vote; which was agreed to; and the bill was ordered to be engrossed for its third reading to-morrow.

THURSDAY, February 16.

Removal of the Indians.

The following Message was received from the President of the United States:

WASHINGTON, *15th February*, 1832.

To the Senate and House of Representatives:

Being more and more convinced that the destiny of the Indians within the settled portion of the United States depends upon their entire and speedy migration to the country west of the Mississippi set apart for their permanent residence, I am anxious that all the arrangements necessary to the complete execution of the plan of removal, and to the ultimate security and improvement of the Indians, should be made without further delay. Those who have already removed, and are removing, are sufficiently numerous to engage the serious attention of the Government; and it is due not less to them than to the obligation which the nation has assumed, that every reasonable step should be taken to fulfil the expectations that have been held out to them. Many of those who yet remain, will, no doubt, within a short period, become sensible that the course recommended is the only one which promises stability of improvement, and it is to be hoped that all of them will realize this truth, and unite with their brethren beyond the Mississippi. Should they do so, there would then be no question of jurisdiction to prevent the Government from exercising such a general control over their affairs as may be essential to their interest and safety: should any of them, however, repel the offer of removal, they are free to remain; but they must remain with such privileges and disabilities as the respective States, within whose jurisdiction they lie, may prescribe.

I transmit, herewith, a report from the Secretary of War, which presents a general outline of the progress that has already been made in this work, and of all that remains to be done. It will be perceived that much information is yet necessary for the faithful performance of the duties of the Government, without which it will be impossible to provide for the execution of some of the existing stipulations, or make those prudential arrangements, upon which the final success of the whole movement, so far as relates to the Indians themselves, must depend.

I recommend the subject to the attention of Congress, in the hope that the suggestions in this report may be found useful, and that provision may be made for the appointment of the commissioners therein referred to, and for vesting them with such authority as may be necessary to the satisfactory performance of the important duties proposed to be intrusted to them.

ANDREW JACKSON.

The Message and documents were referred to the Committee on Indian Affairs.

Remains of Washington.

The SPEAKER announced to the House that the Vice President and himself, in the fulfilment of the joint resolutions of the two Houses, in relation to the celebration of the centennial anniversary of the birthday of George Washington, addressed a letter to Mr. John A. Washington, and to Mr. G. W. P. Custis, requesting their consent to the removal of the remains of George Washington and Martha Washington, and had received their answers, copies of all of which he laid before the House, and which are as follows:

WASHINGTON, *February* 14, 1832.

SIR: The Senate and House of Representatives have passed a joint resolution to celebrate the centennial birthday of George Washington, authorizing the President of the Senate and the Speaker of the House of Representatives to make application to you for his remains, to be removed, and deposited in the capitol at Washington, in conformity with the resolution of Congress of the 24th December, 1799.

They have passed another joint resolution, authorizing us to make application to you and Mr. G. W. P. Custis, for the remains of Martha Washington, to be removed and deposited at the same time with those of her late consort George Washington.

We herewith enclose copies of these resolutions, and, in the discharge of the duty imposed on us, have to request that you will give us as early an answer to this application as may be practicable.

We have the honor to be, with great respect, your obedient servants,

J. C. CALHOUN,
Vice President, and President of the Senate.
A. STEVENSON,
Speaker of the House of Representatives.

Mr. J. A. WASHINGTON, *Mount Vernon.*

A similar letter to the above was addressed to George W. P. Custis, Esq.

MOUNT VERNON, *February* 15, 1832.

To the honorable the President of the Senate, and the Speaker of the House of Representatives.

GENTLEMEN: I have to acknowledge the receipt of your letter, and the resolutions of Congress to carry into complete effect that which was adopted in December, 1799, for the removal of the remains of George Washington to the seat of Government.

I have received with profound sensibility the expression of the desire of Congress, representing the whole nation, to have the custody and care of the remains of my revered relative; and the struggle which it has produced in my mind between a sense of duty to the highest authorities of my country and private feelings has been greatly embarrassing. But when I recollect that his will, in respect to the disposition of his remains, has been recently carried into full effect, and that they now repose in

perfect tranquillity, surrounded by those of other endeared members of the family, I hope Congress will do justice to the motives which seem to me to require that I should not consent to their separation.

I pray you, gentlemen, to communicate these sentiments and feelings to Congress, with the grateful acknowledgments of the whole of the relatives of my grand uncle, for the distinguished honor which was intended to his memory, and accept for yourselves assurances of my gratitude and esteem.

JOHN A. WASHINGTON.

ARLINGTON HOUSE,
Tuesday Night, February 14, 1832.

GENTLEMEN: The letter you have done me the honor to write to me, requesting my consent to the removal of the remains of my venerable grand parents from their present resting place to the capitol, I have this moment received.

I give my most hearty consent to the removal of the remains, after the manner requested, and congratulate the Government upon the approaching consummation of a great act of national gratitude.

I have the honor to be, with perfect respect, gentlemen, your most obedient servant,

GEORGE W. P. CUSTIS.

To the Hon. JOHN C. CALHOUN,
Vice President of the United States.
ANDREW STEVENSON,
Speaker of the House of Representatives U. S.

Mr. EVERETT suggested the propriety of referring these letters to a Select Committee, inasmuch as their reception might render it necessary to make some change in the contemplated arrangement for the approaching celebration.

Mr. THOMAS, of Louisiana, thought the House had gone as far as it need go. Let the whole proceedings be spread upon the journals, and there let the matter rest.

Mr. ADAMS thought the commitment would be unnecessary; and after a short conversation, Mr. EVERETT agreed to withdraw his motion.

Apportionment Bill.

The bill for the apportionment of representatives was read a third time.

Mr. DAVIS, of Massachusetts, demanded the yeas and nays on the passage of the bill, which was ordered, and were as follows:

YEAS.—Messrs. Adair, Alexander, C. Allan, R. Allen, Allison, Anderson, Angel, Archer, Arnold, Ashley, Babcock, Banks, Barnwell, Barringer, Barstow, J. Bates, Bell, Bergen, Bethune, James Blair, John Blair, Boon, Bouck, Bouldin, Branch, J. C. Brodhead, Bucher, Bullard, Burd, Burges, Cambreleng, Carr, Chinn, Claiborne, Clay, Clayton, Collier, Conner, B. Cooke, Cooper, Coulter, Craig, Crawford, Davenport, Deyan, Dewart, Doubleday, Drayton, Duncan, G. Evans, J. Evans, Felder, Fitzgerald, Foster, Gaither, Gilmore, Gordon, Griffin, W. Hall, Hawes, Hawkins, Heister, Hogan, Holland, Ihrie, Isacks, Jewett, R. M. Johnson, Cave Johnson, Kavanagh, Kennon, A. King, J. King, H. King, Lamar, Lansing, Leavitt, Letcher, Lewis, Lyon, Mann Mardis, Mason, Marshall, Maxwell, McCarty, W. McCoy, R. McCoy, McDuffie, McIntire, McKennan, Milligan, T. R. Mitchell, Muhlenberg, Newnan, Nuckolls, Patton, Pearce, Pierson, Polk, Potts, Rencher, Roane, Root, Russel, W. B. Shepard, A. H. Shepperd, Smith, Soule, Speight, Standifer, Stephens, Sutherland, Taylor, P. Thomas, Wiley Thompson, J. Thomson, Tompkins, Tracy, Verplanck, Vinton, Ward, Wardwell, Wayne, E. Whittlesey, F. Whittlesey, C. P. White, E. D. White, Wickliffe, Wilde—130.

NAYS.—Messrs. Adams, Appleton, Armstrong, N. Barber, J. S. Barbour, I. C. Bates, Beardsley, Briggs, J. Brodhead, Cahoon, Choate, L. Condict, S. Condit, E. Cooke, Crane, Creighton, J. Davis, Dearborn, Denny, Dickson, Doddridge, Ellsworth, E. Everett, H. Everett, Grennell, T. H. Hall, Hammons, Harper, Hodges, Hoffman, Howard, Hubbard, Hunt, Huntington, Irvin, Jarvis, C. C. Johnston, Kendall, Kerr, Lecompte, Mercer, Newton, Pitcher, Randolph, J. Reed, E. C. Reed, Slade, Southard, Storrs, F. Thomas, Vance, Washington, Watmough, Weeks, Wilkin, Wheeler, Williams, Young—58.

South Carolina Claims.

The House then took up the bill allowing the State of South Carolina certain sums on account of expenditures made by her for defence during the late war. The question before the House was upon concurrence with the Committee of the Whole in the amendment allowing a certain amount for blankets furnished, which was carried.

Mr. WHITTLESEY moved further to amend the bill, by striking therefrom the first and second sections, allowing the State interest on certain sums. He stated that a bill from the Senate had been referred to the Committee of Claims, (of which he is chairman,) allowing interest to all those States who had paid interest on the moneys they had advanced to the General Government. The Committee of Claims proposed an amendment to that bill, which retained the Senate's principle, but extended it to all advances made by any of the States. He thought it better that these allowances should be embraced in one general law, applying alike to all the States.

Mr. MCDUFFIE urged against this motion the delay which had already taken place. South Carolina had waited for five sessions, and had expended fifteen or twenty thousand dollars in presenting her claims. Her agent was now here waiting. The principle was clear, and he was willing that it should be applied to all other States in like circumstances.

Mr. DRAYTON opposed the amendment, and contended that South Carolina asked no more than what had been allowed in the case of other States, and that, if there was any distinction between their cases and hers, the distinction was in her favor. The State had a bank in which she invested her funds, when not otherwise employed; and from which the State usually derived a dividend of from nine to twelve per cent. Yet, though her advances had been made from the stock of this bank, she demanded but six per cent. interest.

Mr. WILLIAMS, of North Carolina, contended that this bill introduced a new principle, namely, that States were to be compensated for what they had lost in consequence of making advances to the Union. If this principle was adopted, it ought to be carried fully out, and South Carolina, instead of receiving six, ought to be allowed from nine to twelve per cent. She had not raised the money by taxes, or borrowed it on interest, but had used her bank stock, on which it was very uncertain what interest she might have received. The principle established by the Committee of Claims was, that the States were to be allowed only for losses or injuries actually sustained, and interest actually paid.

Mr. MERCER protested with warmth against the principle that any regard was to be had to the state and condition of a State's finances at the time she had advanced money to the United States, in settling the allowance of interest. South Carolina had a bank; and whether she had been making upon its stock ten per cent., or fifty per cent., or a hundred per cent., was perfectly immaterial. The only question was, whether the United States had had her money, whether they ought to reimburse it, and whether they ought not to allow her the legal rate of interest during the time they had had the use of it. The interest was as much due as the principal. A State might, for certain reasons, be willing to waive a part of her claim, but that did not touch the right. Mr. M. here went into a statement of the circumstances which had induced Virginia, at one time, not to press the whole of her demands upon the United States. But if one State should choose to compound for a part of her demand, that did not in the least affect the rights of other States.

The principle was a very important one. It was important that all the States should understand that, if under any emergency the General Government should be unable to extend its shield over all the extremities of the Union, those States who, in such a crisis, made advances for the general defence, would be sure of a just and ample compensation.

Mr. WHITTLESEY, after an explanation to Mr. MERCER, begged that gentleman and all the House to take notice that he was not opposed to the allowance of interest in any case where advances had been made. He fully admitted the justice of the principle, that the Government ought to allow interest for the time during which it had had the use of the money of the States. Especially ought this principle to be applied to the advances made during the last war, when the funds and credit of the General Government were so completely exhausted, that its stock sold for twelve and nineteen per cent. below par. No more was asked for these timely advances, than a simple interest of six per cent., by allowing which the United States would unquestionably be great gainers. It was not on this ground that he had moved the amendment, but because he wished equal justice unto all the States, and because the bill, as it stood, was in such a shape that the Third Auditor would have great difficulty in acting upon it. Mr. W. concurred with the gentleman from North Carolina (Mr. WILLIAMS) that the bill did contain a new principle, because interest had heretofore been allowed only in cases where the States had themselves paid interest. Such, at least, had been the rule in reference to the last war. It would be an endless task to calculate the interest on each particular sum from the time it had been advanced. The Senate had proposed a better rule, which was to commence the allowance of interest from the time when the demand had first been made, nor did the bill specify when interest was to cease. The Committee of Claims had provided, in their amendment to the Senate's bill, that interest should cease from the time the money had been refunded.

Mr. ELLSWORTH addressed the House for a short time on the manifest equity of allowing interest for all advances made, whether the money had been drawn by taxation from the pockets of the people, or advanced from a fund already raised. The United States had nothing to do with that inquiry; no man would make it in private life. He feared that, if the amendment should be pressed, the whole allowance might fail.

Mr. DODDRIDGE made an explanation as to what had been done in the Virginia Legislature on the subject of a demand for interest at a different period from that referred to by Mr. MERCER.

Mr. MCCOY confirmed Mr. DODDRIDGE's statement; it was the Congress which had assumed the principle that Virginia was not to be allowed interest on all her advances, but only in cases where she had herself paid interest. That principle having been established by the House, the Committee of Claims held themselves bound by it, and the claims of all other States since had been cut down on the same principle. Now, a new ground was taken, and interest was to be allowed on all advances. Mr. MCC. said he was prepared for this, provided the principle should be applied equally to all other States claiming. On that ground, he was in favor of the amendment.

Mr. HUNTINGTON advocated the bill, insisted on the equity of the general principle, and protested against any reference to the manner in which the State might have raised the money. Whatever labor the interest account might occasion at the department, let it be met, even should it require the whole force of the office. He had no fears of establishing such a precedent. If the precedent was just, let it be carried out, be the effect what it might.

Mr. BURGES was opposed to the amendment. It proposed to establish a law different from that which had existed at the time the transaction in question had taken place. It was an attempt, by one of two parties to a contract, to make a rule against the other. They might as

well attempt to insert a new condition in a bond, or a new date in a note of hand. No rule could be binding, but by the consent of both parties. If the United States acknowledge South Carolina as their agent, they must admit her claim, and allow interest from the moment that the money passed out of her hand. The report of General Hamilton had settled the principle, and established it forever. It had, in fact, been recognized under the old confederation; nor could the Government with justice escape from it. They were as much bound as if the money had been advanced by France or Spain. As to the difficulty about calculating the interest, it was imaginary; and if the gentleman from Ohio expected to devise any rule whatever, out of which the Third Auditor could not raise a difficulty, and contrive some plea for resisting the claim of South Carolina, he labored in vain. If a friend had advanced ten thousand dollars to relieve him in the hour of his necessity, and afterwards, in a season of prosperity, should ask to be repaid with interest, he should blush to ask that friend whether he had had the money by him when he lent it, or in what way he had procured it. The appeal was to the justice of the Government. If they wanted to escape it, the appeal was crooked and difficult; but if they meant to do justly, the path was plain and open.

Mr. WHITTLESEY again stated the difficulties that would occur in making out, according to the rules of the department, such an interest account as the bill in its present form would require. He delivered a eulogy on the Third Auditor, and said that if the gentleman from Rhode Island had had any claim rejected by that officer, he would venture to say it was one which would not have passed by any court of justice.

Mr. ADAMS replied to the objection which had been urged by Mr. BURGES against the amendment. It was because that amendment proposed a law by which the payment of the interest was to be regulated, that he was in favor of it. Would the gentleman be good enough to inform the House how the allowance of South Carolina was to be made without the law? It was for the very reason that there was no law to allow her claim, that she applied to that House. The bill only did partially what the amendment proposed to do more generally. If the allowance was to be made, Mr. A. wished it to be made according to law. Would the gentleman ask the Third Auditor to make any payment that was not warranted by law? He could tell the gentleman that if he went to that officer without a law in his hand, he would get nothing. Without a new law, South Carolina could get no interest. He had no objections to her receiving interest; but the same law which allowed it to her ought to allow it to others. This was what he had asked from the beginning, and what he asked now, that the allowance should be made for her by law, and not by a grant from the Treasury.

After a few words of explanation from Mr. DRAYTON, the question was taken on the amendment, and lost.

The bill was then ordered to a third reading—yeas 130, nays 47.

Portrait of Washington.

The following resolution was taken up for consideration;

Resolved, That the Clerk of this House be directed to employ John Vanderlyn, of New York, to paint a full-length portrait of Washington, to be placed in the Hall of Representatives opposite to the portrait of Lafayette, the head to be a copy of Stuart's Washington, and the accessories to be left to the judgment of the artist; and that the sum of one thousand dollars be appropriated from the contingent fund of the House for the purpose of carrying this resolution into effect.

Mr. WATMOUGH, of Pennsylvania, moved that the resolution be amended by striking out the name of the artist; he wished that the best talents of the country should be employed; but he objected to any thing like a local reference.

Mr. DODDRIDGE suggested to fill up the blank with the words "some suitable artist."

Mr. WATMOUGH accepted the modification.

Mr. WHITTLESEY rose, and appealed to the House whether something was not owing to the living as well as to the dead. And as this was the day appointed for the consideration of private claims, he demanded the previous question.

The call was sustained, yeas 96. The previous question was put, and the resolution agreed to.

Statue of Washington.

The House proceeded to the consideration of the following resolution, reported from the Committee on the Public Buildings on the 14th instant:

Resolved, That the President of the United States be authorized to employ Horatio Greenough, of Massachusetts, to execute, in marble, a full-length pedestrian statue of Washington, to be placed in the centre of the rotundo of the capitol; the head to be a copy of Houdon's Washington, [in the capitol at Richmond,] and the accessories to be left to the judgment of the artist.

The question was put, and decided in the affirmative by yeas and nays, as follows,—yeas 114, nays 50.

Claim of Mrs. Commodore Decatur.

The House then went into Committee of the Whole, Mr. SPEIGHT in the chair, on the following bill for the relief of Susan Decatur:

Be it enacted, &c., That the sum of one hundred thousand dollars be, and the same is hereby, appropriated, as a full compensation and remuneration to Susan Decatur, widow and representative of the late Captain Stephen Decatur, the commander, and to the officers and crew of the United States schooner Intrepid, for the capture and destruction of the

Tripolitan frigate, late the United States frigate Philadelphia, out of any money in the Treasury not otherwise appropriated.

SEC. 2. *And be it further enacted*, That the said sum of one hundred thousand dollars be divided among, and paid (under the direction of the Secretary of the Navy) to, the commanding officer of the squadron, and to the surviving officers and crew of the said schooner Intrepid, and the representatives of such as are dead, in the manner following, that is to say: to the widow of the late Commodore Preble, the commander of the squadron, five thousand dollars; to Susan Decatur, the widow and legal representative of the late Stephen Decatur, being the officer included in the first class, thirty-one thousand four hundred and twelve dollars and forty-two cents; to the officers included in the second class, or their legal representatives, viz. James Lawrence, Joseph Bainbridge, and Jonathan Thorn, their equal proportions of twelve thousand five hundred and sixty-four dollars and ninety-six cents; to the officers included in the third class, viz. Lewis Heerman, Ralph Izard, William Wiley, William Hook, and Edward Kellar, or their legal representatives, their equal proportions of fourteen thousand nine hundred and fifty-eight dollars and twenty-eight cents; to the persons included in the fourth class, viz. Thomas McDonough, Charles Morris, John Davis, John Rowe, Alexander Lawes, Thomas O. Anderson, James Metcalf, Nicholas Brown, and Joseph Boyd, or their legal representatives, their equal proportions of twelve thousand two hundred and fifteen dollars and ninety-three cents; to the persons included in the fifth class, viz. George Crawford, George Brown, John Newman, Paul Frazier, Solomon Wren, Duncan Mansfield, S. Catelino, Samuel Endicote, James Wilson, John Ford, and Richard Doyle, or their legal representatives, their equal proportions of eleven thousand and seventy-four dollars and eighty-nine cents; and to the persons included in the sixth class, consisting of forty-two seamen and marines, or their legal representatives, their equal proportions of twelve thousand seven hundred and seventy-three dollars and fifty-two cents: *Provided*, That the accounting officers shall, in no instance, pay over the distributive share due to the proper persons herein provided for, to any other person or persons whomsoever than to him, her, or them, for whom it is appropriated, or to his, her, or their legal representative or representatives, first fully ascertained to be such by the said accounting officers. Nor shall any contract, bargain, or sale, of any such distributive share to any person or persons, be, in any wise, obligatory on the vender, but shall be held, and deemed to be, null and void, to all intents and purposes.

Mr. CARSON said, in commending this bill to the favorable consideration of the House, he would briefly state that, from motives of public policy, the Congress of the United States, in the year 1800, were induced to pass laws for the better government of the navy, and, in the fifth section of the act of that year, provision was made "that the proceeds of all ships and vessels, and the goods taken on board of them, which shall be adjudged good prizes, shall, when of equal or superior force to the vessel making the capture, be the sole property of the captors; and when of inferior force, shall be divided equally between the officers and men making the capture and the United States."

The obvious effect of this act was, undoubtedly, to foster the spirit of our navy, then in its infancy, and to stimulate our seamen to deeds of gallantry and of daring, whilst in the service of their country, by holding out to them rewards for their valor. This, then, being taken as a reason for the passing of the act alluded to, he asked the House whether any engagement, or any achievement in their naval annals, could be compared to the burning of the frigate Philadelphia in Tripoli, or which could come more properly within the provisions of the spirit of the act entitling our seamen to rewards. He did not think there was any one case for which compensation for services could be more fairly bestowed, than the present case now before them.

It was useless for him to dilate on the circumstances which led to the recapture and burning of this frigate; for although often attempted, no one as yet had been found able to do justice to the valor of those who, led on by Commodore Decatur, achieved that glorious deed. To use the language addressed to the Secretary of the Navy by Commodore Preble, in his official despatches at the time, their conduct in the dangerous service assigned them was not, could not, be sufficiently estimated; "it was beyond all praise." In this era of generous reward for patriotic services, he hoped for the favorable attention of Congress to this claim. They were about to celebrate the centennial anniversary of Washington, and had that morning, in voting a statue to that great man, (a vote in which he was happy to concur,) done an act which would redound to the honor of the House and of the country; and there was no time, he thought, more suitable, nor any act which would reflect greater credit on them than was now in their power. He asked for their serious attention whilst proceeding to state the strong claims which Mrs. Decatur had, being the widow of him whose name was so associated with this noble enterprise; for glorious as was the achievement, the greater glory of having first planned it was her husband's. Her claims on this account were stronger from the circumstances upon which the attack on the Philadelphia, in the enemy's harbor, was so signally successful, and which would be so well described, in the following letter, which he would read to them.

[Here Mr. C. read the official despatch, giving a detailed account of the enterprise.]

There was nothing, Mr. C. contended, in chivalry to be compared to this; there was nothing in the annals of our navy, nor in the naval annals of the world, to be compared to this engagement. He was unwilling to have their feelings carried away by the chivalry displayed, and rather wished they should return to the great benefits resulting to this Government from the capture of that vessel, and, in doing so, estimate what was due to the gallant leader of this gallant band. To enable the

House to reward these persons, they would recollect that, although there were acts passed which gave remuneration to the captors of vessels actually made prizes, and condemned as such, there was not any provision, by the existing prize laws, in cases where vessels were totally destroyed. Congress, not to let any act of heroism pass unrewarded, had established, during the late war, precedents upon which this claim was founded. In May, 1813, an act was passed empowering the President to distribute fifty thousand dollars to Commodore Hull and others, for the capture of the Guerriere. For a similar purpose, the sum of twenty-five thousand dollars for the capture of the Hornet. And, in fact, rewards were bestowed for upwards of twenty other vessels, which, having been captured from the enemy, were recaptured, or destroyed at sea or on the lakes, during the late war.

The committee reported, by the bill before them, one hundred thousand dollars, to be distributed amongst the captors of the frigate, estimating the value of her at only that amount, although she was well known to be worth two hundred thousand dollars. The House, following the precedents already detailed by him, with respect to other vessels, would not hesitate in giving the sum reported by the committee. The committee had followed the suggestions recommended by Commodore Rodgers, in apportioning the distribution; and the mode adopted in the bill was, under the circumstances, the very best which could be made. Having brought the subject before the House, he wished, before he concluded, again to call their attention to the signal benefits derived from this achievement, and which were more for the advantage of the United States than for those engaged in it. Of its beneficial effects at the time to this Government, an instance might be found in the fact, than when Commodore Decatur returned successful from Algiers, and appeared before Tunis, he there made a prompt demand from the Bey of satisfaction for injuries done to our citizens; and to show the dread inspired by this achievement at Tripoli, he would read to them Commodore Decatur's own letter.

[Here Mr. C. read the letter referred to.]

The Bey paid into the hands of our consul, who had been appointed prize agent there, forty-six thousand dollars, the amount specified in a protest, for two vessels which the Bey had permitted the British to take out of the harbor, and which had been captured by the American privateer Abœlino. Commodore Decatur subsequently obtained a further sum of twenty-five thousand dollars from the Pacha of Tripoli, making, altogether, seventy-one thousand dollars, which accrued to this country, he was warranted in saying, solely from the dread inspired by the gallantry of his conduct.

He now asked the House to remunerate Mrs. Decatur, as representative of this gallant man, for the recapture of the frigate Philadelphia; and having stated the ground upon which the claim was made, as the House did not wish a long discussion on the subject, he would not trespass further on their time, but would reserve the right of replying to any objections that might be made, if the objections were of sufficient force to require it; and would conclude by trusting that this era of generous feeling would be propitious to this claim, and that the bill would pass without any amendment.

Mr. TRACY was totally opposed to the bill, considering it both unjustifiable in principle as well as in the mode in which the distribution was to be made under it. As Commodore Decatur had not, during twenty years previous to his decease, made any claim of this kind, he (Mr. T.) considered that it was a waiver of the claim. He had received during his lifetime suitable rewards from Congress for the services he had performed, with which he was satisfied. And however highly he thought of his merits, and sympathized with his lady, whom it was the object of the bill to benefit so largely, he would not permit his feelings of sensibility in her favor to carry away his duty as a member of the Legislature. The bill called on the House to vote a very large sum, for which, with the exception of the grant made by Congress to Commodore Perry, and for the capture of some piratical vessels at Barrataria, there was no precedent on the journals. By the prize act it appeared that all that Commodore Decatur would have been entitled to receive, if alive, out of this claim, would be only ten thousand dollars. This amount should therefore, in his opinion, be considered enough for his widow. But if the bill must pass, he felt it his duty to move the following amendment, viz., that the sum voted should be distributed according to the provisions of the prize act.

The question was taken on Mr. TRACY'S amendment, and negatived—yeas 54, nays 78.

Mr. PEARCE advocated the claims of the two nieces, daughters of Commodore Decatur's sister, whose circumstances were such as to give them strong claims to some portion of the reward about to be bestowed. As the sum to be granted by the bill assumed the shape of a gratuity, and was not in the nature of a vested interest, the House could apportion the amount in their discretion. This portion of the family of Commodore Decatur lived with him, and were dependent on him for support during his lifetime. He thought, if there were 10,000 dollars set off for them, that is, if 5,000 dollars were given to each of these two ladies, and deducted from what was intended for the widow, she would still have sufficient, not having any family; and the House would be acting with generosity to both. For this purpose, he moved, as an amendment, that the sum of 31,000 dollars, now inserted in the bill for Mrs. Decatur, should be stricken out, and 21,000 dollars inserted in lieu thereof.

Mr. KERR, of Maryland, said he had seen this claim, on former occasions, resisted, as he

thought, unjustly, and it had failed, in part, from an undue parsimony on the part of some very worthy and honorable members, and from unreasonable prejudices excited against it. It had even been said, at one time, that Decatur had no peculiar merit in setting forth this enterprise, because he acted under the orders of Commodore Preble, and it was whispered that the prisoners in Tripoli had first suggested the plan. Sir, said Mr. K., amongst the abundant proofs which may be presented on this point, I will read to the committee certain letters from one who was perfectly conversant in the whole transaction, and who, from the relation of rank which he bore to Decatur, could never have suffered the minutest circumstance to have passed from his memory. Commodore Stewart was in the squadron at the moment of the unfortunate loss of the Philadelphia; and he afterwards commanded the Syren on this expedition. He was the senior officer of Decatur, and had also volunteered his services; but the preference was given to Decatur, for the sole reason on which I now contend for his superior merit in it.

[Mr. K. here read the two following letters from Commodore Stewart, addressed to Mrs. Decatur.]

Letters from Commodore Stewart relative to the recapture of the Philadelphia.

BORDENTOWN, (N. J.) *December* 12, 1826.

My dear Mrs. Decatur: The re-assembling of the honorable Congress of the United States renders it necessary to delay no longer answering your esteemed favor of June last, in which you request me to state such information, relative to the burning of the Philadelphia, in the harbor of Tripoli, as I may possess, in aid of your claim on our country, for the success of that gallant enterprise, so ably and honorably performed by your late husband.

I regret that my limited abilities disqualify me from portraying, in those glowing colors of which that act is susceptible, the gallantry and perseverance with which it was performed by my late friend.

You state that your late husband had given you to understand that the project of burning that frigate at her moorings, and thereby remove a serious impediment to the future operations of the squadron against Tripoli, originated with him. This understanding was perfectly correct: it did originate with your late husband, and he first volunteered himself to carry it into effect, and asked the permission of Commodore Preble, off Tripoli, (on first discovering the frigate was lost to the squadron,) to effect it with the schooner Enterprise, then under his command. The Commander-in-Chief thought it too hazardous to be effected in that way, but promised your late husband that the object should be carried into effect on a proper occasion, and that he should be the executive officer when it was done. It was accordingly effected in the ketch Intrepid, by your husband and seventy volunteers from the schooner he commanded, at great hazard, not only of life or liberty, but that of reputation, and in the season most perilous in approaching that coast. The recollection of the difficulties and dangers he had to encounter in that expedition, of which I was an eyewitness, excites more and more my admiration of his gallantry and enterprise; and, although the result shed a lustre, throughout Europe, over the American character, and excited an unparalleled emulation in the squadron, in our country alone is where it has never been duly estimated, or properly understood.

Courage, and great force alone, could not have effected it. It was necessary not only to put the smallest possible force to the hazard, but its success depended upon a very small force being used. The genius and mental resources of the executive officer could alone compensate for the want of force and numbers. To these demands your late husband was found fully adequate, and hence the brilliant result. The frigate was completely destroyed, in the midst of the enemy, and his retreat effected without the loss of a man.

Accept, my dear madam, the assurance of my highest respect and esteem.

CHARLES STEWART.

Mrs. SUSAN DECATUR.

PHILADELPHIA, *January* 5, 1827.

My dear Mrs. Decatur: I received your letter of the 30th ult. to-day, in which you request information of the time your husband proposed to destroy the frigate Philadelphia, in the harbor of Tripoli. Without referring to my books and papers, now at Bordentown, I could not give you the exact dates which you wish; but this is of no moment, as the facts relative to that transaction will be sufficient.

The squadron under the command of Commodore Preble had been detained some time, as they severally arrived at Gibraltar, (with the exception of the frigate Philadelphia and the schooner Vixen,) to counteract the hostile designs of the Emperor of Morocco. As soon as the Commodore had accomplished his objects in that quarter, he proceeded off Tripoli, in the Constitution, accompanied by the schooner Enterprise, commanded by your husband. On arriving off Tripoli, where the Commodore expected to find the frigate Philadelphia and schooner Vixen blockading that port, he discovered that frigate at moorings in the harbor. It was at this time your late husband proposed to destroy the frigate with the Enterprise under his command; and at this time, as I stated in my former letter to you, Commodore Preble assured your husband that the frigate should be destroyed, and he should be the executive officer when done, for his having so handsomely volunteered his efforts to effect it with the schooner Enterprise.

I give you these facts as I received them from Commodore Preble and your husband at the time, as well as from several officers then on board the Constitution.

Some time after this, I arrived at Syracuse in the Syren brig, from Algiers, and offered my services for the expedition, which were accepted by Commodore Preble.

Some time after this, when the expedition was a subject of conversation in the cabin of the Constitution, (which was frequently the case, from the extreme urgency on our part to have it effected immediately, and unwillingness on the part of the Commodore to have it executed at so perilous a season of the year, and his reluctance to put any thing to hazard in a force originally so small, but then much reduced by the loss of the frigate and her crew,) a letter was received from Captain Bainbridge, at Tripoli, I think by way of Malta, which

was partly written in lemon juice, and which the Commodore read to us, after rendering it legible before the fire. In this letter the practicability of destroying the frigate was strongly urged by Captain Bainbridge, and the mode he pointed out was by a surprise. This despatch fully confirming all our ideas and previous conversations on that subject, decided the Commodore at once to carry it into effect; which was done soon after, in the manner set forth in his reports on that subject to the Secretary of the Navy.

I remain, with the highest respect and esteem, your most obedient servant,

CHARLES STEWART.

With proofs like these, said Mr. K., I contend that Decatur was doubly entitled to reward, as the projector of this great enterprise, and as the leader in the daring execution of it, which shed the first halo of renown upon the flag of our infant navy. But how different was this exploit from a battle fought between equal, or even unequal forces, upon the open sea! In the one case, there is the animation and encouragement which passes from man to man, at the sound of the battle; there is the sense of common danger, and of mutual support; and there are all the chances in the fortune of war: but, on the forlorn hope, there is nothing but cool, deliberate courage and self-command to support the adventurer. In the case before us, there was a display of consummate judgment, coolness, and courage, unsurpassed in the annals of history. A little band of heroic spirits precipitated themselves into the harbor of a barbarian foe—in the very mouths of his cannon—amidst his gunboats and his galleys, and upon the very threshold of his castle; and there destroyed his main naval force in the face of thousands of armed men! How superior was such a conquest to a prize! And, with all the known effects and advantages which flowed from the achievement of this enterprise, after you have uniformly rewarded every extraordinary incident of capture—even of the tenders and ships' boats of the enemy in the late war—such as occurred in the Chesapeake and upon the Potomac, and other rivers, can you refuse a fair gratuity, when asked for by the widow of the heroic leader of such a band, for herself and his surviving comrades?

Then, as for the second branch of the question, Mr. K. asked, to whom, since Decatur is no more, shall the reward which ought to have been bestowed, unsolicited, upon himself, be now allotted? He died childless, and his widow, as she was the object of his affection and confidence in life, was designated in his will as the sole object of his bounty. To all that belonged to him here, it was his declared wish that she should succeed. It was his will that this should be so, and you will most honor his memory by fulfilling it. Mr. K. said he had deprecated a public discussion of the circumstances of the memorialist, as he thought the private affairs of Commodore Decatur, and of his surviving widow, were subjects only proper to be introduced, and freely spoken of, from necessity; but as they had been so introduced, he, too, would speak plainly. Decatur, when he made his will—an act doubtless executed with due reflection, and firmness of purpose—must have looked to the situation of his own affairs, and, with the chances before him of a nigh and sudden death, could not have failed to consider the probable condition of his wife. Sir, said Mr. K., I have no doubt, from the style of living which his situation and standing had compelled him to keep up, he was conscious that his widow might soon need every thing it was in his power to bestow; and it is true, sir, I believe, that, in the endeavor to discharge his honorable debts, and to save a pittance to herself, her hopes have deceived her; and although I speak not by the authority of Mrs. D., but by that of another, perhaps knowing as well, I think I may safely aver that she is not worth a dollar. I think, therefore, sir, the money which this bill proposes to bestow on the widow of Decatur, in consideration of his public service, ought not to be withdrawn from her, and distributed away amongst his relatives, under mistaken notions of that kind of justice which, like a species of charity in the world, is so diffusive as never to have dried the tears of one widow, or relieved one orphan from distress. And I trust that the appeals to popularity which have been resorted to, will not have the effect, as heretofore, of defeating the generous action of Congress, according to the provisions of the bill as it stands.

Mr. VINTON moved that the committee rise.

Mr. SUTHERLAND rose, but

Mr. VINTON pressed his motion; upon which the question was taken, and carried.

MONDAY, February 20.

Insolvent Debtors' Bill.

A bill in addition to an act granting relief to certain insolvent debtors of the United States, came up for consideration; and the question being on its engrossment for a third reading,

Mr. ELLSWORTH briefly explained the nature of the bill, the object of which was only to fulfil the intentions of the House in passing the act of last year upon the same subject. That act had been so worded that the Attorney General of the United States construed it to apply only to a particular class of insolvents, namely, to those who were technically insolvent, either having taken the benefit of the act in favor of bankruptcy, or having made an arrangement with their creditors to deliver up their property, or having absconded; to those, in a word, who had performed some act which, according to the English law, would constitute them bankrupts. The Attorney General had founded this construction on a decision of the Supreme Court. The true construction was immensely important, because the United States had a lien on the property of all their insolvent debtors:

and if all persons unable to pay their debts were to be brought within that term, they ought to know it. The first section of the present act was intended to guard against this interpretation. The remaining section was intended to supply another defect in last year's act. By that law, the Secretary of the Treasury was authorized to release those creditors only who should compromise with the United States, by paying a part instead of the whole of their debt; but as it often happened that the most meritorious class of debtors was found among those who have not taken any advantage of any law, and yet were unable to pay any portion of their debt, the present bill was so worded as to include and relieve their case.

Mr. WICKLIFFE, apprehending that the present act would be liable to some of the same objections with that of last year, suggested the propriety of amending it, by adding the words "of which ability the Secretary shall be authorized to judge from all the evidence before him."

Mr. ELLSWORTH said the Secretary had the power at present.

Mr. FOSTER objected to the bill, as going much further than the act of last year. It relieved not only those who offered a compromise with the United States, but all persons who might be unable to pay their debts. This had never been in the thoughts of the House when they passed the bill last year, and it would lead to consequences of the most dangerous kind. The Government was thus about to surrender its claim to thousands, and perhaps to millions of money which was justly due. When a man had private debts, as well as his debt to Government, and should find himself unable to discharge both, all he would have to do would be to pay his private debts, and then tell the Secretary that he was unable to pay the United States, in which case he would be released. The only guard against this was the discretion of the Secretary, and the interposition of the board of commissioners. But everybody knew how easy it was to tell a smooth tale, and support it by plausible evidence. Mr. F. was opposed to empowering any officer of the Government to release the creditors of the United States. That power ought to remain in Congress alone.

Mr. ELLSWORTH replied, and vindicated the bill as not going an inch beyond the true intent and meaning of the former act. The gentleman seemed willing that those creditors should be released who had rich friends or relations to advance a part of the debt, but would leave the poor man, however honest, under a hopeless burden, because he was without such friends.

Mr. MCDUFFIE inquired whether the bill went to release debtors who had responsible sureties.

Mr. ELLSWORTH replied in the negative.

Mr. MCDUFFIE desired that this should appear on the face of the act, and, with a view to that end, moved that the further consideration be postponed till to-morrow.

The motion prevailed.

THURSDAY, February 23.

Patent to Aliens.

A bill granting letters patent to certain aliens was read a second time, and ordered to be engrossed, and read a third time to-morrow.

Mr. TAYLOR, in explanation of the bill, said the patentee is a native of Massachusetts, who went to Europe a few years ago, and obtained in England, France, and Prussia, patents for several inventions, of which he is the inventor. He there met with certain individuals who had invented a great improvement in the manufacture of ropes out of flax, the merit of which chiefly lay in the fact that the fibres of the flax were laid in the rope longitudinally; the consequence of which was an increase in the strength of the rope, amounting by experiment to twenty-eight per cent. This new manufacture was conducted secretly, but Mr. Abel was admitted to share in the concern on condition that he should obtain a patent for the improvement in the United States. He had accordingly brought out with him models and machinery requisite to set up the manufacture here, should the patent be granted. The committee were of opinion that the improvement was a valuable one, and might with advantage be introduced into the navy yards of the United States, and, although the inventors were foreigners, they considered it expedient that the patent should issue. They had, therefore, reported a bill.

The House went into Committee of the Whole, and took up the general appropriation bill.

Minister to Colombia.

On reading the following paragraph:

"For the salaries of the Ministers of the United States to Great Britain, France, Spain, Russia, and Colombia, —— dollars,"

Mr. MCDUFFIE said that when the committee had proposed to fill this blank with $42,750, it had been on an estimate made on the supposition that the salary of the Minister to Colombia was to continue but nine months. The Secretary of State had since then informed the committee that the President, for good and sufficient reasons, has determined to retain our Minister at that court, and he now, therefore, proposed to fill the blank with $45,000.

Mr. WILDE said he was unwilling to oppose the appropriation, but he could not suffer it to pass without a remark. The gentleman at the head of the Committee of Ways and Means had informed them that it had been the avowed purpose of the Government to discontinue the appointment of a Minister at the court of Colombia, and to supply his place with a chargé

d'affaires. He considered that resolution as in conformity with the best interests of the country. He recollected that a certain Committee on Retrenchment, once of much note in that House, had recommended, among other reforms, the discontinuance of our Minister at that court, and the House had had from a late President of the United States the avowal of a similar sentiment. In a discussion which had taken place a few days since, it had been avowed that the Government of Colombia was dissolved, and unless something very special rendered it necessary to continue our Minister there, Mr. W. was not prepared to vote the appropriation. A resolution had been offered by a gentleman from South Carolina, whom he did not now see in his place, calling for information on this subject, but, owing to the obstructions arising from the morning debate, the resolution had not been acted on. Till the House had some further light on this subject, he thought the first sum proposed by the committee ought to remain.

Mr. ARCHER, chairman of the Committee on Foreign Affairs, observed that, even if the Government of Colombia had been dissolved, as he was inclined to believe it had, we must still have a chargé at Bogota, and the continuance of our Minister, who was already there, would cost the Government no more than the sending out a chargé. The discussion, therefore, was merely a nominal one, inasmuch as the Government asked for no additional expenditure.

Mr. BELL thought it would be more respectful to the Government that the sum which had been asked for should be appropriated. If it should afterwards be discovered by Congress that they had applied for a useless waste of money, and Congress should deem it their duty to control the Executive Department in the conduct of this part of our diplomacy, the sum might be reduced. There was, besides, another idea of great interest to the American people, and, indeed, to every people, which showed the propriety of the appropriation. If the friends of the progress of liberty in South America thought it important to that cause that the dismembered fragments of the Republic of Colombia should be reunited, then this Government ought not suddenly to withdraw its Minister from Bogota.

If the hope of reunion was to be fostered, it might prove a strong argument to that end, that the Governments of the United States and of Great Britain still continued their Ministers there. He desired to give the friends of the late Government all the benefit of such an argument.

Mr. WICKLIFFE inquired whether the bill made any provision for the outfit of a chargé to Colombia.

Mr. MCDUFFIE replied in the affirmative, but that was a specific appropriation, contained in a different clause of the bill.

Mr. WICKLIFFE further inquired whether the Government of Colombia had any accredited agent near the United States.

Mr. ARCHER shook his head.

Mr. WICKLIFFE said that his great objection to the appropriation was that we were sending a Minister to a Government which, so far as we knew, had no existence. All the information we had on the subject, went to show that it had been dissolved, and three Governments formed in its stead. If our Minister was to be sent to all three of those Governments, it ought to be so expressed. He could see no good reason for the increase of the appropriation.

After some further conversation between Messrs. MCDUFFIE and JENIFER, the question was put on the rising of the committee, and negatived—yeas 81, nays 79.

The appropriation of $45,000 was then agreed to.

FRIDAY, February 24.

Washington's Remains.

The Speaker laid before the House the following communication, viz:

WASHINGTON, *February* 24, 1832.

To the Speaker of the House of Representatives of the United States:

One of his associates not having arrived at Washington, and the other having declined to act, in performance of the honorable trust confided to us by the Governor of Virginia, the undersigned takes upon himself the honor to transmit to the Speaker of the House of Representatives of the United States the envelope directed to him by the Governor of Virginia, covering the resolutions of the General Assembly, laying claim to the remains of our illustrious fellow-citizen George Washington; also covering a letter from the Governor of Virginia, accompanying the resolutions; and in the discharge of this duty he takes leave to remark, that while the people of Virginia are proud of the gratitude of their fellow-citizens of the United States for the eminent public services of the father of his country, and also for their high admiration of his patriotic virtues, manifested by the successive resolutions of Congress, they also justly anticipate the frank acquiescence of their fellow-citizens of the United States in the paramount claim of his native State to the sacred remains of her Washington.

FRANCIS T. BROOKE.

VIRGINIA, EXECUTIVE DEPARTMENT,
February 20, 1832.

To Andrew Stevenson, Esq.,
Speaker of the House of Reps. U. S.

SIR: The honorable Francis T. Brooke, Chief Justice John Marshall, and Major James Gibbon, the friends and brother officers of Washington in the war of the revolution, are the bearers of this communication, and of the resolutions adopted by the General Assembly of this State, expressive of their feelings and those of the citizens of this commonwealth with regard to the contemplated removal of the remains of Washington from Mount

Vernon by the Congress of the United States. Agreeably to the wish of the General Assembly, I have the honor to request you to receive and lay the resolutions of that body before the House of Representatives of the United States.

I am, sir, with consideration and respect, your obedient servant, JOHN FLOYD.

"The General Assembly of Virginia view with anxious solicitude the efforts now making by the Congress of the United States to remove from Mount Vernon the remains of George Washington. Such removal is not necessary to perpetuate the fame of him who was "first in war, and first in peace," nor can it be necessary to perpetuate and strengthen the national gratitude for him who was "first in the hearts of his countrymen."

The fact that Virginia has been the birthplace of the best and most illustrious man that ever lived, is naturally calculated to inspire her citizens with a strong desire to keep his remains enshrined in the land of his nativity; this desire is increased by the consideration that the burial ground was designated by the dying patriot himself. Therefore,

Resolved, unanimously, That the proprietor be earnestly requested, in the name of the people of this State, not to consent to the removal of the remains of George Washington from Mount Vernon.

Resolved, unanimously, That the Governor of this commonwealth forthwith make known the feelings and wishes of the General Assembly upon the subject, in the most appropriate manner, to the present proprietor of Mount Vernon, and the Congress of the United States.

Agreed to by both Houses, February 20, 1832.
GEORGE W. MUNFORD, *C. H. D.*

The communication was ordered to lie on the table, and be printed.

Claim of Mrs. Decatur.

The House then went into Committee of the Whole, Mr. SPEIGHT in the chair, on the bill for the relief of Susan Decatur, which bill was warmly debated until half-past four o'clock.

Mr. CARSON, with a view to conciliate those who would not vote for the bill unless it contained a provision for the nieces of Commodore Decatur, moved (by consent of Mr. PEARCE, who withdrew his amendment for that purpose) an amendment to the bill, granting $10,000 to the Misses McKnight.

The amendment was opposed by Messrs. WICKLIFFE and DRAYTON, and advocated by Mr. DODDRIDGE—when the question being put, it was rejected.

SATURDAY, February 25.

Claim of Mrs. Decatur.

The House then went into Committee of the Whole on the bill for the relief of Mrs. Decatur and others.

The question was taken on Mr. PEARCE's amendment, and was negatived—yeas 76, nays 80.

Mr. BLAIR, of South Carolina, said, although he would not yield to any person in estimating the valuable services of Commodore Decatur, yet he was opposed to the bill in every shape: he was opposed to it, because, as it seemed to be conceded, the money was to be regarded as a simple donation on the part of the country. He did not think, according to the principles of the constitution, the House had the right to make such a donation. Much stress had been laid on the circumstance that this measure had come recommended to the House by the President, although he (Mr. B.) was satisfied that, in recommending it, the President had only done what he felt to be his duty; yet he regretted that he had meddled with it; he wished he had left that job undone. In opposing this measure, however, he for one had no apprehension of being censured for doing so by the President, for as he himself got credit for doing, at all hazards, what he believed to be right, he would doubtless allow to others the privilege of acting consistently with what they deemed a conscientious discharge of their duty. If, however, he should, in so acting, incur the censure of the President, then he would say, in God's name, be it so. He felt it his duty to move that the enacting clause be stricken out of the bill.

When the question on this motion was about to be put,

Mr. MCDUFFIE suggested the propriety of withdrawing this motion, as it could be put when the subject came before the House.

Mr. BLAIR consented to withdraw his amendment, but a similar one was offered by Mr. PENDLETON; after which,

Mr. POLK, in reply to what had fallen from the member from South Carolina, wished to explain that he voted for the bill, not on the ground of its being a simple donation, for if he thought it was, he agreed with him that it was not in the power of the House, according to the constitution, to make it; he voted for it, because it came fully within the equitable principles of the prize act, and which, as had been detailed to the House, had been sanctioned dur ing the late war by Congress.

Mr. MCDUFFIE believed that this was as just and sacred a claim as any which had been ever pending between individuals and the United States; and when the proper time would come, he was prepared to meet all the objections which had been urged against the bill.

Mr. DAVIS, of Massachusetts, moved that the committee should rise and report progress; which motion was carried.

MONDAY, February 27.

Bank of the United States—Inquiry into its Conduct.

The following resolution, moved on the 23d instant by Mr. CLAYTON, of Georgia, was taken up:

Resolved, That a Select Committee be appointed to examine into the affairs of the Bank of the United States, with power to send for persons and papers, and to report the result of their inquiries to this House.

Mr. WATMOUGH moved the question of consideration.

On that question Mr. POLK demanded the yeas and nays.

A discussion thereupon arose on the question whether it was in order, after a resolution had been postponed to a day certain, to receive a motion such as had been made by Mr. WATMOUGH.

In this discussion, or rather conversation, Messrs. POLK, HUNTINGTON, CAMBRELENG, CLAYTON, EVERETT, WILLIAMS, FOSTER, and MCDUFFIE participated.

It having been ascertained from the journal that the resolution after having been offered had received the action of the House by a vote postponing its consideration until this day, the Chair decided that it was too late to entertain the question of consideration.

Mr. WILLIAMS thereupon moved to lay the resolution on the table; but after some remarks from Mr. CLAYTON, he consented, at the request of Mr. MCDUFFIE, to withdraw his motion.

Mr. CLAYTON said he was not disposed to discuss this resolution, but in a spirit of the utmost liberality. [He commenced with quoting a clause in the charter requiring the bank to submit its affairs to examination.] The Committee of the House appointed to examine the subject, had declared that the power to investigate the state of the institution was so wholesome in its nature and tendency, that whenever any suspicion was excited against the bank, it ought to be employed. [Here he quoted the report of the Committee of Ways and Means, and also that of the minority of that committee, to show that they coincided in recommending an examination into the affairs of the bank.] Mr. C. said, that when he introduced the resolution, he had expected that the friends of the bank would have seized on the opportunity thus held out to them to put the institution on higher ground than any it had yet occupied; for such must be the effect of the investigation, if the condition of the institution were such as they represented it to be. It must be manifest to every one, that if the bank should come out of the ordeal unharmed, and prove itself to be a benefit to the nation, none would be disposed to put it down.

Mr. C. said he would frankly state what he believed could be brought against the bank. He thought it was enough for him, as a representative of the people, to state to his co-representatives the charges which he believed might be substantiated against the institution; when they had heard them, they might vote the investigation or not, as they might deem proper. The following facts would, he believed, be established, and, under that impression, he preferred them as a sort of indictment against the bank:

1. The issue of 7,000,000, and more, of branch bank orders as a currency. The president of the bank admits seven millions issued.

2. Usury on broken bank notes in Kentucky and Ohio; they amounted to $900,000 in Ohio, and nearly as much in Kentucky. See 2 Peters's Reports, p. 527, as to the nature of the cases.

3. Domestic bills of exchange, disguised loans to take more than at the rate of six per cent. Sixteen millions of these bills for December last. See monthly statements.

4. Non-user of the charter. In this, that from 1819 to 1826, a period of seven years, the South and West branches issued no currency of any kind. See the doctrine on non-user of charter and duty of corporations to act up to the end of their institution, and forfeiture for neglect.

5. Building houses to rent. See limitation in their charter on the right to hold real property.

6. In the capital stock, not having due proportions of coin.

7. Foreigners voting for directors, through their trustees.

Abuses worthy of inquiry into, not amounting to forfeiture, but going, if true, clearly to show the inexpediency of renewing the charter.

1. Not cashing its own notes, or receiving in deposit at each branch, and at the parent bank, the notes of each other. By reason of this practice, notes of the mother bank are at a discount at many, if not all, of her branches, and completely negatives the assertion of "sound and uniform currency."

2. Making a difference in receiving notes from the Federal Government and the citizens of the States. This is admitted as to all notes above five dollars.

3. Making a difference between members of Congress and the citizens generally, in both granting loans and selling bills of exchange. It is believed it can be made to appear that members can obtain bills of exchange without, citizens with a premium; the first give nominal endorsers, the others must give two sufficient resident endorsers.

4. The undue accumulation of proxies in the hands of a few to control the election for directors.

5. A strong suspicion of secret understanding between the bank and brokers to job in stocks, contrary to the charter. For example, to buy up the three per cent. stock at this day, and force the Government to pay at par for that stock; and whether the Government deposits may not be used to enhance its own debts.

6. Subsidies and loans, directly or indirectly, to printers, editors, and lawyers, for purposes other than the regular business of the bank.

7. Distinction in favor of merchants in selling bills of exchange.

8. Practices upon local banks and debtors to make them petition Congress for a renewal of its charter, and thus impose upon Congress by false clamor.

9. The actual management of the bank, whether safely and prudently conducted. See monthly statements to the contrary.

10. The actual condition of the bank, her debts and credits; how much she has increased debts and diminished her means to pay in the last year; how much she has increased her credits and multiplied her debtors, since the President's Message in 1829, without ability to take up the notes she has issued, and pay her deposits.

11. Excessive issues, all on public deposits.

12. Whether the account of the bank's prosperity be real or delusive.

13. The amount of gold and silver coin and bullion sent from Western and Southern branches of the parent bank since its establishment in 1817. The amount is supposed to be fifteen or twenty millions, and, with bank interest on bank debts, constitutes a system of the most intolerable oppression of the South and West. The gold and silver of the South and West have been drawn to the mother bank, mostly by the agency of that unlawful currency created by branch bank orders, as will be made fully to appear.

14. The establishment of agencies in different States, under the direction and management of one person only, to deal in bills of exchange, and to transact other business properly belonging to branch banks, contrary to the charter.

15. Giving authority to State banks to discount their bills without authority from the Secretary of the Treasury.

Having gone through with these items, briefly commenting on each as he proceeded, Mr. C. observed that he knew a number of petitions had been presented to the House in favor of rechartering the bank. Such petitions were gotten up with great facility. Some of these were even obtained in New York. Now he would appeal to the whole South, whether the petition of a few individual merchants was to be regarded in preference to the declared opinion of the Legislature of the State of New York. He knew it was become very unfashionable to listen to the voice of States; he knew they were scarcely as much respected as so many corporations, and that their will weighed nothing. But, as long as he was able to utter his voice in favor of the rights of the States, he would continue to aver that they were worthy to be regarded. The House was receiving the petitions gotten up by the bank as an expression of the wishes of the community, while the voice of New York and of other States was disregarded.

The bank was an institution whose arms extended into every part of the community; and one of its officers had not long since boldly declared that the moment the bank should succeed in obtaining the renewal of its charter, it would grind the State institutions to dust. This he pledged himself to prove. An institution like this, which, by a mere exertion of its will, could raise or sink the value of any and of every commodity, even of the bread we ate, was to be regarded with a jealous watchfulness. When the present charter was granted, a committee had been appointed to investigate its concerns; and he thought the bank ought to be satisfied that the proposed inquiry should be instituted.

The charges he had made, could, he was confident, be maintained. He had not made them without the best reasons. But should the charges be refuted, the bank would be able to convince the nation that it did not rest on the rotten foundation which some men supposed. If such should be the result, it would, in a great manner, close his mouth, although not on the constitutional question involved. If the bank should refuse the inquiry, it would forfeit the confidence of the community; and, in the last resort, the people would call upon another watchman to pronounce the *shibboleth* of their protection. He had not a doubt that, should the charter be renewed, advantage would be taken of the granted power to crush the State institutions.

Mr. McDUFFIE addressed the House nearly as follows:

Mr. McD. said that if any tangible and substantial charges had been submitted to the House on the authority of but a single respectable witness known to the House, he should feel under the highest obligation to go into the investigation proposed, cost what it might, and be the consequences what they might. But it was extremely obvious, that to sustain a resolution of the character of that which had been offered by the gentleman from Georgia, containing matter of so grave a kind, and having such an important bearing on all the interests of the Bank of the United States, was a thing not likely to be done. The gentleman had drawn up an indictment, as he called it, against the bank, containing fifteen counts; and out of all of them, there were but one or two which professed to disclose any other than matter of general notoriety.

As to the first charge—"the issue of seven millions and more of branch bank orders as a currency:"

Now, sir, said Mr. McD., I will take this charge as a fair specimen of the whole: and I will venture to say that all the others will end in the same manner as this must end, on a fair and candid investigation. What is the charge? That the bank has forfeited its charter. And how has it forfeited it? By doing that which the charter itself, in terms, authorizes it to do: by issuing bills of exchange. What is the very object for which the bank was instituted? What is its most important and most beneficial operation? It is dealing in exchanges: the very operation here denounced. It seems, according to the gentleman, that these drafts, or

bills of exchange, are grossly unconstitutional. Why? Because they are drawn by one of the branches of the bank, and signed by the officers, the president and cashier of such branch? Oh no. That is a common, regular operation of every day. Why then? Because they are drawn upon the mother bank? No: that, too, is an ordinary, every-day operation. Such drafts on the mother bank are drawn by the branches continually. Why then? Why, sir, I will tell you: it is because the bank has been so atrocious, so daring, as to paint the paper on which these drafts are drawn. That, sir, is the whole substance of the charge. The gentleman can make nothing else of the matter. The drafts are colored blue, stamped in a particular way, and they circulate as bank bills. This is the idlest, the very idlest, of all charges that ever was gravely brought forward. It will not bear discussion. Although not against the charter, this operation is very inconvenient to the bank. It is perfectly well known that the officers of the mother bank did not possess the physical power to sign the vast number of small bills required for the circulation of the country; and these checks were substituted as a matter of sheer necessity. What injury has happened to the public in consequence of the adoption of this expedient? What is the charge against these drafts, except that they are painted and stamped? The bank is liable for every such check that may be issued. That point has been tried and settled. No professional man, familiar with commercial law, will dispute the position that the bank, having thus authorized the branches thus to draw upon it, is responsible for the drafts. The bank is authorized by its charter to deal in exchanges. The branches draw upon the mother bank, by an authority given them in advance; and every lawyer knows that such an indefinite authority granted to an agent beforehand renders the principal liable to any extent.

What, I again ask, is the injury sustained by the public? It has been said by the gentleman from New York the other day, (Mr. CAMBRELENG,) that these drafts are payable nowhere. Ay! payable nowhere! If that is the fact, the objection is conclusive. But, sir, they are, in point of fact, payable everywhere. That is the fact, and the bank has paid them everywhere, indiscriminately. There may have been a few exceptions, owing to a very great accumulation of them at one spot; but the bank usually pays them at all its branches. So much for the grave charge of painting drafts.

The next specification is for "usury on broken bank notes in Kentucky and Ohio." And as to this count, as a lawyer, I should almost think it subject to a demurrer. "Usury on broken bank notes!" Sir, I do not quite understand this charge. The gentleman read a plea put in by the defendants and their counsel, to which there was a demurrer; and he stated the decision of the court, that the facts set forth in the plea went to make out a case of usury. Sir, the lawyers must have been unskilful indeed if they did not. A demurrer to a plea is made merely to settle a principle. A demurrer decides no facts. But the gentleman omitted to read the explanatory note at the bottom of the page. I will supply the omission. [Here Mr. McD. read a note stating that owing to the demurrer the facts of the case never came to proof.] Sir, the whole of these alleged facts going to make out a case of usury, are denied, and can be disproved. This is a plain case, a very plain case. Both the Government of the United States and private individuals deposited, in the branch bank in question, State bank paper, good when deposited. The branch bank held this paper, and received interest upon it as so much cash, from the State bank. The State bank did finally pay up the balance of notes held by the United States branch. Under this state of things, an individual comes to the branch seeking a loan. The office tells him, we are prohibited, by the orders of the mother bank, and especially by a temporary regulation at this time, from complying with your request. The applicant says he is willing to take bills of the State bank which had been deposited there, (and which were equal to so much cash to the institution,) and to this proposition the bank assented. It was a perfectly fair transaction; and the individual no doubt thought at the time that a great favor had been extended to him, but found it convenient to plead usury when the day of payment came round. This transaction happened ten years ago. But this, it seems, is the day when all the sins of the bank, for these sixteen years past, are to be brought up in judgment. If the gentleman had gone beyond the year 1819, he might have brought forward much higher charges than this; and if the bank is to be held responsible for them, too, there is no telling where it will end. But, in the year 1819, all those now stale charges were brought fresh for examination before this House, and the bank was exonerated from serious censure, on the ground that they were matters which had grown out of the necessity of the times, and that the bank had done the best it could.

Sir, the fact is, the very difficulties of the bank in 1819 all grew out of an attempt to do what the gentleman from Georgia supposes the bank is bound now to do; from the idle and visionary attempt to pay the bills of all its branches, not only at the branches where drawn, but at all its offices. It was an absurd attempt to do what was and is impracticable.

The third article of this indictment charges the bank with "the dealing in domestic bills of exchange, and disguised loans."

Why, sir, this is one of the ordinary transactions of the bank, and one of the most unexceptionable of those transactions. Sir, am I to understand the gentleman from Georgia as charging the bank with a violation of its charter, because it buys bills of exchange, and sells bills of exchange, or checks, at half per cent.,

one per cent., or any per cent. it pleases? I should, I confess, like to understand the nature of these charges.

Mr. CLAYTON explained. A note was asked to be renewed; the bank refused the request, but was willing to give discount on a draft on a distant factor, thereby realizing a profit of two per cent. on the bill. This, he concluded, was a disguised loan. If the applicant had the money to pay for this draft, he had the money to pay the note. This, though not a regular compact to get ten per cent., was certainly a regular dealing in loans, and was a substitute for a demand of higher interest.

Mr. MCDUFFIE resumed. He believed that the charge as now made never could be made out. The Bank of the United States never, he was confident, had been guilty of such a transaction, with a view to practise a species of extortion, by exacting a rate of interest not allowed by its charter. I can conceive, however, said Mr. McD., a case where the bank would refuse a loan on an ordinary note, when its object was to have funds ready in a particular place to meet some engagement there. Under these circumstances it might be very willing to grant a loan, if the money, when repaid, was to be deposited at that place; and in such a case the bank would be lawfully entitled to realize the difference of exchange between the two points; and I will venture to say that in that case the bank would be found willing to take a lower rate of exchange than any broker who might be employed.

The fourth charge was a "non-user of the charter;" in this, that during a period of seven years, the Southern and Western branches had issued no currency of any kind.

It was unnecessary to go into the question of non-user. Every practical man acquainted with banking would be satisfied that the bank would never have violated its charter, if some of its branches had never issued a single bill. It was not a condition in the charter that the bank should issue bills from all of its branches. Why should it? The object of the bank, in a commercial view, was to grant discounts; but, for this, it was under no necessity of issuing its own bills of any kind. Could not the bank let the applicant have specie for his note, or the bills of some other bank? Might not the state of exchange be such, that the bank could not safely issue its own notes at a particular place? Did not the gentleman know that there was a time when it would have been very hazardous to do so? In 1818, the institution had been reduced almost to bankruptcy, by the attempt to pay its bills indiscriminately. There was in the West a vast demand for the bills of the bank, and its circulation might have been extended to an almost indefinite amount. It did issue bills in the first instance, to the amount of many millions. But such was the state of the internal commerce of the country, that the whole of the bills issued in the West found their was to the branch at New York, and other Eastern branches. The balance of trade was constantly against the West, and the current of exchange carried all the paper of the bank to the Eastern branches, where specie was demanded. The consequence was, (what it must ever be, if the bank should have no discretion as to where its bills should be issued and payable,) all the exchanges of the country were performed without compensation, at the expense of the bank. Would any man give even one-fourth per cent. for a bill of exchange, if he could take a bill of the Bank of the United States, and send it from one point of the Union to another, with the assurance that it would there command specie? The consequence of such a state of things would be, that the bank would have to keep teams constantly travelling backward and forward with specie.

The fifth charge was the building of houses to rent. On this subject the terms of the charter, Mr. McD. said, were plain. It prohibited the bank from purchasing land, save in certain specified cases; the debt must not originally have been contracted on the security of land; but where there was a mortgage subsequently given, by way of collateral security, the bank was permitted to purchase. In this manner, and in no other, had the bank become possessed of real estate. The idea of the gentleman, said Mr. McD., is wholly new to me; and I should be glad if the gentleman from Georgia would show me, from Coke or Blackstone, how it can be lawful to purchase land, and not to build houses upon it, and lease it. The authority to buy land is an authority to own land; and an authority to own land is an authority to use it; and can a man be said to have the full use of his land, if he may not build a house upon it and rent it, until he can sell? Such a construction went to destroy the right altogether; the right to purchase is wholly deceptive, unless the land purchased may afterwards be made use of in any lawful manner most conducive to the interest of the owner.

The sixth count is for not having, in the capital stock, a due proportion of coin. I am wholly at a loss to understand this charge. It is alleged to be a violation of the charter. I am unapprised to what fact it refers. I should be glad to know to what part of the charter it relates. There is nothing in the charter, as I read it, on the subject.

The seventh charge: "Foreigners voting for directors through their trustees." I know nothing of this charge. But the fact can easily be ascertained from the bank itself. I have no doubt that, so far as it is a charge at all, it will turn out to be wholly without foundation. It may be that stock has been owned by a foreigner, and yet held in the name of some citizen of the United States. But how, I ask, can the bank prevent an American stockholder from voting on stock held by him, on the ground of a secret trust? This is no abuse for which the bank is answerable, unless the bank has been conusant of the fact, and had the power of cor-

recting the abuse. This charge may be answered from the books and records of the bank, in five minutes. I have now gone through those charges which go to an alleged violation of the charter of the bank. The others, according to the gentleman, do not amount to a forfeiture, but are thrown in to show the inexpediency of rechartering the institution. I will proceed to notice these in order. The first of these subordinate offences is stated to be, "not cashing its own notes, or receiving in deposit at each branch, and at the parent bank, the notes of each other."

It is unnecessary that I should enter on the investigation of this topic. In the report made two years since by the Committee of Ways and Means, it was fully examined, and the imputation effectually refuted. By the attempt to do what the bank is here assailed for not doing, all the embarrassments which prevailed in 1819 were, as I have said, produced. No bank that acted on the plan suggested could sustain the soundness of its currency for two years. A bank with branches extended over all the States of the Union, to be bound to pay the notes drawn at all these branches at every other branch! Why, sir, does not the gentleman see that all the commercial exchanges of the country would be conducted at the expense of the bank? The bank issues bills at New Orleans, promising to pay them at that place. What says the gentleman? The promise of the bank to pay at New Orleans binds it to pay at New York, and the promise to pay money at St. Louis binds it to pay at Philadelphia. Why? Suppose an iron master in Pennsylvania promises to deliver one hundred tons of iron at a specified town in that State, say Lancaster, is he therefore bound to deliver that quantity of iron at New Orleans? Sir, this would be no greater absurdity than that which would exist in the case assumed. This is the very last charge that ought to have been brought against the bank. The matter was fully investigated in 1819, and it was, I believe, the almost unanimous opinion of this House that it was the impotent attempt of the first direction to carry out this doctrine that led to all the overtrading and embarrassment and ruin which ensued.

This attempt had nearly perpetuated the unsoundness of the currency which the bank was instituted to correct and prevent. Should such a condition be inserted in the charter, it would be utterly vain to talk any longer of a uniform and sound currency. The Bank of the United States would soon become an auxiliary with the State banks, and run with them the career of depreciation. It could not avoid it. It would be a matter of necessity.

Here, sir, is another charge: "The making a difference in receiving notes from the Federal Government and the citizens of the United States."

This is a most serious and extraordinary charge, indeed! Sir, what are the terms of the bank charter? Is not this the very thing it stipulates that the bank shall do? Was it not one of the primary objects of establishing the bank? Sir, the bank was created, among other objects, for the very purpose of doing the thing which is here made the ground of denunciation. The bank is obliged, by its charter, to receive the bills of all its branches as deposits of the Government, and to transfer the funds thus deposited to all parts of the United States where the Government may require them. Is not this dealing with the General Government in a manner different from that which the bank deals with individuals?

But I will here remark that this circumstance, so far from being a disadvantage to individuals, is, on the contrary, a very great advantage to them. All who owe the Government, though they may reside in the northernmost extremity of the Union, may tender bills drawn by the branch of Louisiana in payment, and they are receivable for all Government dues; the bank is bound to take them on deposit, and to give cash for them when demanded, or drafts on any part of the Union. This obligation to receive the bills of its branches indiscriminately, and to give cash or drafts in exchange for them, gives to those bills almost as uniform a value as if they were generally receivable. It renders the bills of the Bank of the United States almost perfectly uniform throughout the Union—certainly more uniform than specie itself could be in so extensive a country.

The next charge is in these words: "Making difference between members of Congress and the citizens generally, both in granting loans, and in selling bills of exchange."

I am wholly ignorant of the nature and extent of the facts alluded to.

[Here Mr. CLAYTON explained—but not a word reached the reporter's desk.]

Mr. MCDUFFIE resumed. I believe it has been the uniform practice of the bank, from its foundation, to accommodate members of Congress as to their pay. It gives us gold or silver when we wish it, or drafts on distant places; and I confess, sir, that I, for one, should be grievously distressed, on my own account as well as on that of my fellow-members, should the gentleman succeed in deterring the bank from granting us these little accommodations.

Next comes "the undue accumulation of proxies in the hands of a few to control the election for directors."

The bank has no control whatever over this, nor has any abuse been practised.

Then we have the following specification: "A strong suspicion of secret understanding between the bank and brokers to job in stocks, contrary to the charter. For example, to buy up the three per cent. stock at this day, and force the Government to pay at par for that stock; and whether the Government deposits may not be used to enhance its own debts."

Sir, I confess that the language of this count in the gentleman's indictment did not a little surprise me. That the Bank of the United

States, a bank holding its privileges by a charter from the Congress of the United States, should be formally arraigned by a member of that Congress on a public charge that there is "a strong suspicion of a secret understanding of that bank with brokers for jobbing!!" Is the gentleman from Georgia aware of the probable consequences of what he is doing? Has he not received some admonitions on the subject of yielding his ear too credulously to those suspicions which are whispered by anonymous and irresponsible informers? This, sir, is one of the gravest charges on the whole catalogue. It involves not indeed a violation of the charter, but it contains a charge of moral turpitude utterly disgraceful to any public institution.

Sir, I do not believe the charge. It is a universal principle, that even the criminal at the bar of public justice shall not only by the humanity, but by the wisdom of the law, be presumed innocent until his guilt shall be established by proof. Yet here are we called to go a tilting against fabricated phantoms of guilt and corruption, which on the very face of the indictment rest on mere suspicion. Sir, what must be the effect of this investigation? The gentleman from Georgia must surely be aware of the delicate nature of the public credit of all kinds: above all, of bank credit. A whisper may blast it. It is like female reputation; you have only to make the charge, and you have already, and perhaps irreparably, done the injury.

Suspicion, therefore, is no adequate ground for instituting such an inquiry as this. Facts, well authenticated, and positively vouched by responsible persons, are the only sufficient grounds of such a proceeding. Yet here is one of the guardians of the public interest, and who ought also to be a guardian of that institution, bringing forward a grave and damning imputation against its character, without even the pretence of proof. I shall feel myself bound to vote down any such attempt. Sir, what is it? It is not even a ghost! Not a shadow! "A mere bodiless creation!" It is nothing but what may be imputed to the purest of men as readily as to the purest of public institutions.

I have no doubt that some such dark insinuation has been poured into the gentleman's ear. I know him too well to suppose that he would otherwise bring forward such a charge. But, having brought it forward on this floor, I trust, before the House rises, he will state the name of the author, and by whom he proposes to prove it. It is a very grave charge, and I hope it will not go off without assuming a more tangible shape.

Another charge is, "subsidies and loans, directly or indirectly, to printers, editors, and lawyers, for purposes other than the regular business of the bank." This, sir, is a charge which turns upon facts. I am entirely ignorant of them, as no disclosure has been made on the subject. I think the gentleman from Georgia is bound to show some proof to sustain them: but, in the absence of proof to substantiate the charge, I may take it for granted the bank pursued the same course in making their loans and discounts to the lawyers, editors, and printers, as they pursued in regard to every other class. If the bank had done otherwise—if it had proscribed these classes of citizens, it would not have discharged its duty. I can well imagine that printers and editors, in certain cases, which might be stated, would not be proper subjects for public patronage; that objections might be urged to the practice of appointing them to office, when the natural consequence would be to impair the perfect freedom of the press, and make it subservient to the will of those having patronage to bestow.

Such objections have been urged against the last as well as the present Administration; but this objection was founded altogether on political grounds. But I have never yet heard it maintained that a printer or editor was, by any principle in law or morality, to be held and deemed so destitute of credit as to be precluded from obtaining a loan from a bank. If there be such a principle in either the commercial or political code of the country, I am entirely at a loss for the grounds of it. Along with the editorial corps, the lawyers, too, come within the scope of the gentleman's proscription. I should be glad to know upon what possible grounds they can be precluded from enjoying the facilities of bank discounts. Are they not entitled to have the same privileges as other men? Are we to recognize different orders in the country? Shall the Bank of the United States be constituted into a sort of moral Areopagus, with authority to place whole classes of the community under the ban? On this subject I may possibly have some *esprit du corps*, having once been a member of the profession of law; but in the state of things which the gentleman seems to desire, I should regard myself fortunate in having abandoned it. But the whole foundation for this charge, I will venture to say, when investigated, will turn out, although thus gravely urged against the Bank of the United States, to be nothing more than that it had the audacity to employ some eminent lawyer, who gave an opinion in favor of the legality of those checks, the issue of which by the bank the gentleman from Georgia so much deprecates. And although that opinion may not be gratifying to that gentleman; and though he may not approve of the bank employing its funds for the purpose of getting such an opinion, the stockholders, who are the only persons interested in this matter, will no doubt say the money for that purpose was well laid out. The bank directors acted properly in getting a professional opinion, to put a stop to the charge which was bruited throughout the country, that they were making issues of spurious paper, for which the bank was not responsible.

The next charge is, "that the bank made a distinction in selling bills of exchange." This is unfounded.

The eighth charge is, that the bank has used undue and improper "practices to induce the local banks to petition Congress for a renewal of its charter, and thus impose upon Congress by false clamor." Now, sir, this is, in its very nature, and upon its very face, a charge founded not upon evidence, but surmise and conjecture, and I therefore pass it over as meriting no serious attention, owing to its vagueness.

The gentleman next proposes "that an inquiry should be instituted as to the actual management of the bank, whether safely and prudently conducted." This contains no charge, and requires no special notice. Nor can I perceive on what ground it is proposed that an inquiry be made into the actual condition of the bank, its debts and credits; how much it has increased its debts and diminished its means to pay within the last year. How much it has increased its credits and multiplied its debtors, since the President's Message in 1829, without ability to take up the notes it has issued, and pay its deposits. With regard to this, there is nothing in it. The particulars sought for are fully and satisfactorily disclosed in the monthly accounts rendered to the Treasury, and the annual accounts rendered to the stockholders. A reference to these accounts will satisfy the gentleman, without further trouble, that the affairs of the bank have been prudently conducted, and that it is not only able to pay its debts, but has fulfilled all its obligations, and performed all its duties, in a manner that should be highly satisfactory to the people and to the Government as well as to the stockholders.

The next allegation of the gentleman is "that the bank has made excessive issues, all on public deposits."

Now, sir, if the Bank of the United States is obnoxious to censure in this respect, there is no bank in the whole Union that can escape condemnation. For I may venture to assert that there is not one which is not authorized, by the terms of its charter, and which does not, in point of fact, issue a larger amount of bills, according to its actual capital, its deposits, and the specie in its vaults, than the Bank of the United States. I say it boldly, that there is no bank in the country, and never has been, which has conducted its issues with more perfect safety to all the interests involved. Let the available means of the bank be considered for a moment, and this charge will utterly vanish. These means amount to upwards of sixty millions; of which a sum sufficient to pay all the notes in circulation could be converted into specie on the shortest notice. It would not be hazarding much to say that if a run was made upon the bank for specie, it could redeem all its notes in circulation in the short space of sixty days; a fact which certainly cannot be predicated of any other bank.

The honorable member from Georgia seems to dissent from this, however, because the specie in its vaults amounts to only seven or eight millions. Why, sir, does it not occur to that gentleman, that the available resources of a bank are not alone the specie in its vaults, but that it has other funds equally as available as specie? The notes of State banks convertible into specie, and the funded debt owned by the bank, may be fairly estimated as cash, in the operations of the bank. In addition to these, the discounted notes and bills of exchange which the bank holds, to the amount of some sixty millions, puts it in its power, at all times, to call in to the amount of five or ten millions more, to meet any extraordinary demand for specie.

So much, sir, for the prosperity of the bank and its resources; and I leave it to this House to decide "whether it be real or delusive."

The next inquiry which the gentleman from Georgia proposes to make by the agency of a Select Committee, relates to "the amount of gold and silver coin and bullion sent from Southern and Western branches to the parent bank since its establishment in 1817." The amount, says the specification "is supposed to be fifteen or twenty millions, and, with bank interest on bank debts, constitutes a system of the most intolerable oppression of the South and West. The gold and silver of the South and West have been drawn to the mother bank, mostly by the agency of that unlawful currency created by the branch bank orders." I would remark, sir, that the transfer of specie, like that of any other article, is regulated by the course of commercial exchange, and the demands of the different parts of the Union. To complain that this transfer is performed by the bank, almost free of all charge, is to complain of one of its most salutary and beneficial operations. Let me tell the gentleman from Georgia that he has entirely mistaken the cause of these oppressive drafts for specie upon the Southern and Western States. He seems to me to have been singularly unfortunate in ascribing these oppressive drafts for specie to the bills of exchange drawn by the Southern and Western branches on the mother bank. In no respect has the Bank of the United States rendered more essential service to the country, and granted greater commercial facilities to the people, than in the very matter which is here brought up in judgment against it. The gentleman has mistaken the hand that mitigates the burden for the hand that imposes it. A bare reference to the course of trade between the different parts of the Union will verify what I have said. For example, the Western farmer sends his live stock to Charleston or Savannah, and sells it for money. As these cities are not the markets in which he can most advantageously make his purchases of goods, he would most assuredly demand specie for the local bank notes obtained for his live stock, in order to make his purchases in New York and Philadelphia, if it were not that the branches of the United States Bank furnish drafts or checks on these cities, which are, for all the purposes of

the Western farmers, better than specie. With these drafts the Western merchants pay for the merchandise which supplies the Western market, and the whole circle of this domestic commerce is completed without the use of a dollar of specie. It is obvious, therefore, that this very operation of the bank, upon which the gentleman charges the oppression of the South and West, is that which tends most powerfully to relieve them from oppression.

But these parts of the Union are subject to very oppressive drafts, I admit, from a very different source, however, from the Bank of the United States. It is, sir, from the fiscal operations of this Government, from the large amount of revenue levied and collected in these parts of the Union, and disbursed in other parts of it, that these oppressive drafts proceed. And if the gentleman would look a little deeper into the matter, he would find that here, also, the Bank of the United States, though it is unavoidably the agent of the Government in making these drafts, performs the duty in such a way as to diminish the injury inflicted to a very great extent, in comparison with what it would be if the same duty were performed by any other agent. If there were no Bank of the United States, and the Government deposits were made in the local banks, what would be the effect of levying and disbursing the public revenue upon the Southern States? If it be assumed that three millions of revenue are collected in Charleston and Savannah, and only five hundred thousand expended in the South, it would follow that two million five hundred thousand would remain to be transferred, probably to Norfolk and this city, for disbursement. In this state of things, if the Government made its deposits in the local banks, and these were bound, like the Bank of the United States, to place these funds wherever the wants of the Government might require them, I ask, in what manner would they be able to make this transfer? Their bills, whatever might be their credit in Charleston and Savannah, would not be received in Norfolk and Washington. Having no branches at these places, they could not give drafts on them. Their only resource, therefore, would be to transport the specie, or purchase bills of exchange at a very high rate, certainly much beyond the rate which now exists between those points of the Union. If the notes deposited by the Government were in other banks than those in which the deposits were made, the specie would be demanded for them. Then, sir, there would be a real cry of distress, a clamor that would make the very welkin ring. The oppression in this case would not be imaginary, but real; an oppression resulting from the unmitigated action of the Government, levying heavy contributions from the people, and requiring it to be paid in a medium which could not be obtained.

Sir, it is the highest eulogium that can be pronounced on the Bank of the United States, that it provides the Government with a sound currency, of perfectly uniform value, at all places, for all its fiscal operations; and at the same time enables that Government to collect and disburse its immense revenues in the mode least oppressive to the community. If the same functions were exclusively devolved upon the State banks, my reputation on it, the absolute distresses and necessities of the country would drive those banks into the fatal policy of suspending specie payments in twelve months.

I am now approaching the close of this long list of specifiations, and I am heartily glad of it; for I have already committed a much longer trespass on the attention of the House than I intended.

The fourteenth charge is, "the establishment of agencies, in different States, under the direction and management of one person only, to deal in bills of exchange, and to transact other business properly belonging to branch banks, contrary to the charter."

I am wholly ignorant, sir, of any provision in the charter which forbids the establishment of such an agency, and I am equally ignorant of the fact that any such agency has been established. I can very well imagine, however, that circumstances might render it inexpedient to establish a branch of the bank where the interests of the public would be greatly promoted by such an agency as the gentleman has denounced as a violation of the charter. It is quite a new idea to me, sir, that the express authority given to the bank to deal in bills of exchange should be constructively limited to such dealing as is effected by the agency of a branch bank.

I come now to the fifteenth and last specification: "Giving authority to State banks to discount their bills without authority from the Treasury."

I confess, sir, I am at some loss to understand what it is that the gentleman means to condemn in this last count of his indictment. Does he really suppose that the State banks would not be authorized to discount the bills of the United States Bank, without special authority from that bank to do so? or that any authority of that kind could give them a greater right, in that respect, than they have without such authority? The honorable member might as well make it a charge against me, that in making a note I promised to pay the sum stipulated to the bearer, and thereby authorized the payee to negotiate it to whom he pleased. All bank notes are payable to the bearer, and every bank may lawfully discount the bills of every other bank. Upon the whole, sir, if I understand this charge, it is one of the most extraordinary and fanciful charges that can be conceived; but I must admit that it is in perfect keeping with the general tenor of the whole accusation. It is fit and appropriate, sir, that an indictment which commences with the grave and solemn charge of stamping and painting the paper on which its checks are written, and permitting the people to use them in the place of

bank bills, should conclude with the equally grave and solemn charge of permitting the State banks to discount the bills of the Bank of the United States, without the authority of the Secretary of the Treasury!

And now, sir, having gone through the long list of the suggested violations of the charter of the bank, and of other alleged abuses deemed worthy of inquiry by the gentleman from Georgia, I must be permitted to say that the bank has great cause to rejoice that no graver charges can be brought against it. For, sir, with the exception of the crime of being suspected of a secret understanding with brokers to cheat the Government, and one or two kindred charges, resting on the same shadowy foundation, we have heard nothing but the stale and hackneyed and exploded imputations that have been already reiterated a hundred times against the bank, and as many times refuted. I think it must be apparent that this institution has fully performed the great duty of supplying and preserving a sound and uniform currency, and all its other obligations, both to the Government and to the country.

I will say a word or two as to the course which I think wisdom, and prudence, and justice, concur in recommending this House to pursue in relation to the resolution submitted by the gentleman from Georgia. I have already adverted to the delicate nature of bank credit, and the consequent effect of instituting the proposed proceeding, on the extensive interests involved in the Bank of the United States. A large portion of the stock of this institution belongs to the widow and the orphan; in many instances, perhaps, their sole support and inheritance. As the guardians of these interests, therefore, we are called upon to protect the institution in whose destiny they must be involved against every charge which may be preferred upon mere suspicion, at the same time that we are under the highest obligations to the public to prosecute every charge which may be brought forward upon sufficient authority. Most of the charges preferred by the gentleman from Georgia are of a nature to preclude the idea of a Select Committee of investigation, admitting them to be well founded in fact—the legality or illegality of painted and stamped checks, non-user of the charter, building houses to rent, the refusal to receive the notes of all the branches indiscriminately: these and most of the other charges turn upon facts which are not controverted by either party. The questions they present, therefore, are questions of law and of general policy, which this House is better qualified to decide than any committee.

I am, therefore, decidedly opposed to the appointment of this inquisitorial commission, until some facts are brought forward, sufficient, at least, to raise a presumption against the bank. After hearing the further explanations which the gentleman from Georgia may desire to make, I trust, therefore, if he adduces no more substantial grounds of accusation than we have already heard, that the House will give such a direction to this matter as will arrest the whole proceeding.

I have no doubt that the gentleman regards the Bank of the United States as a great national curse, and I can, therefore, very well conceive that his mind will give credence to much slighter evidence against the bank than would satisfy a mind differently prepossessed, or having no prepossessions of any kind. I am convinced of the perfect sincerity in which these charges have been preferred against the bank, and that the gentleman from Georgia has not brought them forward at this particular time, with a view to accomplish, indirectly, any object which he does not avow. But, sir, I cannot be blind to the fact, that if this resolution should be adopted by the House, and a Select Committee should be sent off to Philadelphia to investigate these vague and indefinite charges, there is a strong probability that the important question of renewing the charter of the bank will not be decided during the present session. When the bank presented the memorial asking for a renewal of its charter, the proper occasion was presented for instituting this inquiry. If this course had been then proposed, and any reasonable grounds had been presented, I should have cheerfully voted for a Select Committee. But as the probable effect of instituting this proceeding now, will be to postpone a great and important measure, which the public requires to be speedily decided, I cannot give my assent to it, until a sufficient show of evidence shall be produced to make out a probable cause for the prosecution, and to countervail the presumption of innocence, which is raised by the general character of the directors of the bank, for integrity, fidelity, and ability.

In conclusion, sir, I will repeat the declaration I have already made, that if the honorable member from Georgia will state, upon his responsibility as a member of this House, that there is any respectable man who has assured him that he will prove against the bank the alleged charges of corrupt dealing with brokers or any other description of persons, I will give my vote for creating this special commission, be the cost and be the consequences what they may. But, in the failure of the gentleman to give this assurance, I shall feel constrained by every consideration to give my vote against it.

Mr. McD. having concluded,

Mr. PATTON, of Va., obtained the floor; but, as it now wanted but five minutes of four o'clock, at which hour the House had on Friday agreed to take a recess until seven o'clock, then to take up the Post Office bill, he moved an adjournment. The motion prevailed, and the House adjourned to seven o'clock P. M.

The House resumed its session at seven o'clock, and went into Committee of the Whole on the bill establishing certain post routes, and discontinuing others.

FRIDAY, February 28.

Bank of the United States—Inquiry into its Conduct.

The House resumed the consideration of the following resolution, offered by Mr. CLAYTON, of Georgia:

Resolved, That a Select Committee be appointed to examine into the affairs of the Bank of the United States, with power to send for persons and papers, and to report the result of their inquiries to this House.

Mr. PATTON, of Virginia, rose, and said, when he obtained the floor yesterday, he wished to present to the consideration of the House a few reasons which satisfied his mind that they ought to adopt the resolution offered by the gentleman from Georgia.

What is it? It asks that an inquiry may be instituted into the condition of a large moneyed corporation, having vast influence upon the currency and commerce of the nation, invested with vast powers which it has been clothed with for twenty years, and those powers carrying with them exclusive and valuable privileges during the same period of time. We are called on by this corporation to continue these powers, to renew these privileges, and to allow it to enjoy these profits, for another period of twenty years. A member rises in his place, in this House, and presents a long list of charges, grave charges, and seriously affecting the integrity and fidelity with which the powers heretofore conferred have been exercised; declares that he verily believes these charges or many of them can be sustained by proof, if you will furnish the means of making the investigation.

It is not wonderful that an application so reasonable as this should be resisted by the friends of the institution, supposing the charges to be sustained, the facts to be proved; it would appear that the institution had exceeded its chartered limits, had abused its powers, had employed its funds in bribery, had committed a fraud upon its charter for the purpose of doing indirectly that which the authority to do when asked from Congress was refused, and that it had been guilty of usury. And yet, in the face of such grave charges as these, we are called on hastily and blindly to re-create this corporation. Not to do an act of ordinary legislation which could be repealed next year, if it was found that it had been unwisely enacted; but to make a law which divests us of the power of similar legislation for twenty years. Pass the bill for the renewal of the charter without inquiry, and it cannot be recalled—"*volat irrevocabile verbum*"—no matter how clearly the proofs of usurpation, abuse, and corruption may then appear. And yet you cannot allow the inquiry. And why not?

The first objection seems to be that the charges are not sufficiently minute; not accompanied with detailed specifications of time, place, and manner. This objection seems to be in the nature of a special demurrer to the indictment against the bank, as the gentleman from Georgia called his charges; an appellation which, perhaps, was not exactly appropriate. I would call it a presentment, and the Congress of the United States the grand jury, whose duty it is to investigate the charges, to hear the proofs, to examine the witnesses. But we are told by the gentleman from South Carolina (Mr. MCDUFFIE) that these charges are accompanied by no proof. Why, the very object of the resolution is to procure the proof. If we had the proof, the inquiry would be idle and unnecessary; and yet we are told we shall not have the investigation, because we do not produce that which it is the very purpose of investigation to procure, and which, from the very nature of the subject, cannot be procured, but in the mode indicated by the resolution. Sir, this is mockery.

I do not mean to enter upon a detailed examination of all the items of complaint against the bank, but to examine one or two of them; and if it shall appear, in relation to them, that the bank has apparently violated its charter, and abused its power, it ought to be sufficient to show that we want no other evidence that a further and fuller investigation ought to be made. We shall want no witness, no voucher: if one instance of flagrant abuse can be made out, I would act upon the principle "*ex uno disce omnes*," so far as to vote for the inquiry. For this purpose, in the first place, I ask the attention of the House to the practice of the bank, for several years past, in issuing checks or bills of exchange drawn by the branches on the mother bank; bills of exchange, as they are denominated by those who justify the practice here; bank notes, as the bank itself designates them.

What, asked Mr. P., is the history of this practice? The charter forbids the bank from issuing any bank bills or notes, which are not signed by the president of the bank, and countersigned by the cashier. I have heard it said that, when the question of creating the bank was under consideration, in 1817, the impossibility of these two officers signing as many notes of the smaller denominations as might be thought convenient or useful for the bank, was anticipated. Yet the authority to sign notes for circulation was restricted, as before stated. It was intended that the bank should not have it in its power to supply the whole circulation, and to drive the notes of the State banks out of circulation. It was created for national purposes, and to subserve great and general interests; designed to preserve the State banks in a condition of healthful vigor, not to destroy them. Whether I am correctly informed or not, (and I do not vouch for it,) as to this having been considered when the charter was granted, it is certain that the bank, in 1820 and 1821, felt itself trammelled by the restriction, and, in each of those years, the bank presented its memorial to Congress, complaining of this limitation upon its power to issue notes, and

asked to be allowed to appoint an agent and a register, with authority and for the purpose of signing and countersigning notes, in the same manner as the president and cashier were authorized. The memorial in the House of Representatives was referred to a Select Committee, composed of the friends of the bank, (or at least a majority,) and a bill passed the Senate, giving the authority which was asked, and also referred to the same committee. Neither the memorial nor the bill were reported upon by the committee. Some two or three years afterwards, if I am correctly informed in 1826, the bank, finding it could not procure the authority which it asked from Congress to do it directly, set about contriving some ways and means to do the same thing indirectly; and they accomplished it by adopting these things which the gentleman from South Carolina calls bills of exchange. Now, it is true they are, when first issued, bills of exchange, or checks upon the mother bank, in form, but not in substance. In terms they are so, but not in reality. They have the outward show and appearance of the ordinary bank notes. They issue from the branch banks in the same way, and for the same purposes, as bank notes; they are not treated by those who receive them, nor designed by those who issue them to be treated as bills of exchange. They are issued and reissued precisely as bank notes. What are the incidents of a bill of exchange? One is, that it must be presented in a reasonable time for payment, if no time of payment be expressed; and, if not paid, reasonable notice must be given, that is, by the next mail, in order to fix the liability of the drawer and endorser. A Tennessee farmer, or Kentucky hog drover, would look very queer, if, on presenting one of these bills of exchange, which he was simple enough to think looked very like a bank note, to the branch at Nashville or Lexington, he were to be told, we cannot pay this; this is a bill of exchange; we have not promised to pay it; you must go on to Philadelphia, present it at the mother bank; if it is not paid, give us notice by the next mail, and then we will see about it. Again, bills of exchange are intended for remittance, not for circulation as currency. These notes or bills are intended for and used as currency.

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Thus it is admitted by the president of the bank that these bills of exchange are on the same footing with branch notes—in all respects the same. In other words, that they are not payable at the mother bank, because, according to the "new lights" which have shone upon the bank since 1819, the mother bank is not bound to pay the branch notes—not payable at any of the branches, but that from which they issue respectively—payable nowhere, in short, but at the place where, according to the face of the note, they are not payable, and where there is consequently no obligation to pay them. The gentleman from South Carolina says they are payable everywhere—it turns out they are payable nowhere—thus verifying the adage that "what is everybody's business, is nobody's business."

But we are told by the gentleman from South Carolina that one fact ought to settle this matter. The question as to the validity of these notes, and the right of the bank to issue them, has been decided—adjudicated! and this is announced as if we, the legislators of the nation—the representatives of the people—were to close our mouths whenever a judicial decision has been made upon any question—as if every judge was to be considered a "Sir Oracle, and when he opes his mouth, no dog must bark." By whom decided? By one of the circuit courts of the United States, (some other court in Ohio decided the other way.) With every respect for the ability and legal erudition of the judge who decided the case, I must be permitted to protest against yielding such deferential homage to the opinion of every federal judge. It is enough to demand that we should acknowledge the judicial supremacy of the whole Supreme Court, to which I am ready to pay every deference that I conscientiously can.

How was it decided? Upon the trial of a criminal for forging one of these branch bank orders. I do not know, of course, how the indictment was drawn, but take it for granted, the district attorney took care to draw it so as to avoid any question not necessarily involved; and if so drawn, the judge had about as much to do with the question whether the order was of valid obligation upon the United States Bank, as with the question whether the moon is made of green cheese. The charter of the bank makes the forging "of any check or order drawn upon the bank or either of its branches," criminal and punishable as prescribed in the charter. One of these branch notes is certainly an order or check drawn on the Bank of the United States, and, if genuine, would have made the individual who drew it, and him who endorsed it, liable to the holder, even although neither the parent bank nor the branch whose officers drew and endorsed it were liable, just in the same manner as if a forgery were committed by making a check or order on the Bank of the United States, purporting to be drawn by me in favor of my friend who sits by me, which, if genuine, would create no obligation upon the Bank of the United States, as I am sorry to say I have no money there.

On the whole, therefore, I cannot agree with the gentleman from South Carolina when he says that if the gentleman from Georgia does not admit these to be bills of exchange, it must be because they are printed and painted. On the contrary, I cannot conceive how any man, after this, can vindicate the bank for creating this spurious circulation, unless he is prepared to admit that this institution can make bank notes in any way, no matter how clearly forbidden by its charter, if it will only print and paint them, and christen them as bills of exchange, checks, orders, obligations, or any thing else it may please.

The charge of violation of its charter, or abuse of its power in this particular, is fully made out. I am not disposed to pronounce a condemnatory judgment against the bank therefore, but surely we are called to inquire of the bank why it has done this thing; what excuse it has. Was it impelled to it by any urgent necessity in reference to the public interests? If it turn out to be so, I would look upon the aberration with an indulgent eye, and would not hold it to the full measure of a stern and inexorable infliction of the legal penalty.

Another charge is fully made out, of a violation of the charter, by the adjudication establishing the fact of usury upon the bank, adjudged not by a circuit judge, but by the Supreme Court of the United States in the case of the Bank of the United States *vs.* Owens, &c., 2 Peters. But it is said the usury is not established, because the case was decided upon a demurrer. That is the very reason it does prove it. The demurrer, which admits the facts, would hardly have been filed in such a case as this, if the bank had not known the facts stated in the plea to be true, and could be proved. It is to be presumed that the bank was well advised, as it is known that it employs the best counsel, as it ought to do, and gives the best fees—of which I do not complain, as I am glad to see my brother chips get such good pickings—when the bank then, as we may suppose, told their counsel that the defendant had applied to them for a discount, which they refused because they were not then discounting upon their own paper. But it was afterwards agreed that if he would take notes of the Bank of Kentucky, then at a depreciation of forty six per cent. in the market, and give them his note for the amount at the par value, bearing interest from the date, he could be accommodated. Such counsel, as I have supposed to have been employed, would very naturally have said, your only chance is to deny the legal validity of the defence. If you go before the jury, and the facts are proved, you are gone. If the facts stated in the plea are not true, then you ought not to risk your debt on so nice and delicate a question of law. The bank knew the facts to be true, and stood upon the

law. They played for the last stake, and lost it. The effect and force of this case, in establishing the fact that the bank has practised usury, it is attempted to remove, by a note of the reporter of the Supreme Court, appended to the report of the case, in which some facts are stated as authentic, which go to show that the bank had not incurred the moral turpitude of usury. That statement does not deny the truth of the material allegation of the plea, that Kentucky bank notes, at the time of this transaction, (1822,) were at a depreciation of forty-six per cent. in the market. I must be permitted to say that the reporter, who is employed and paid by the Government to report the judicial proceedings of the court, has gratuitously and impertinently interpolated in his book of reports this statement, which had nothing to do with a report of the case and the judgment of the court, which he says is authentic. It is not said by whom it was avouched—the facts did not appear in the record—and the probability is that it was made by those interested in the bank; and this statement is to be regarded as certainly true, so as to preclude all inquiry. There is no doubt that banks and individuals may be involved in the legal penalties of the usury law, without incurring its moral turpitude. The courts have decided transactions to be usurious, where neither of the parties had the most remote idea of violating the law.

But when a charge of usury is established against such an institution as this, on which we are required to pass a judgment of death or life, when it is shown that it has apparently abused its power, and it has been adjudged that it has violated its charter, surely some explanation ought to be asked for, and given.

Mr. POLK, of Tennessee, said: The bank asks a renewal of its charter; and ought its friends to object to the inquiry? He must say that he had been not a little surprised at the unexpected resistance which had been offered to the resolution under consideration, by the friends and admirers of this institution—by those who, no doubt, sincerely believed its continued existence for another term of twenty years to be essential to the prosperity of the country. He repeated his surprise that its friends should be found shrinking from the investigation proposed. He would not say that such resistance afforded any fair grounds of inference that there might be something "rotten in the State of Denmark." He would not say this; for he did not feel himself authorized to do so; but was it not perceived that such an inference might, and probably would, be drawn by the public? On what ground was the inquiry opposed? Was it that it was improper? Was it that it was unusual? The charter of the bank itself authorized a committee of either House of Congress to examine its books, and report upon its condition, whenever either House may choose to institute an examination. A committee of this House, upon a former occasion, did make such an examination, and he would refer to their report before he sat down. Upon the presentation of the bank memorial to the other branch of the Legislature, a Select Committee had been invested with power to send for persons and papers, if they chose to do so. When the same memorial was presented to that House, what had been the course pursued by the friends of the bank? A motion to refer it to a Select Committee was opposed. It was committed to their favorite Committee of Ways and Means. He meant no disrespect to that committee, when he said that the question of rechartering the bank was known to have been prejudged by that committee. When the President of the United States brought the subject of the bank to the notice of Congress in December, 1829, a Select Committee was refused by the friends of the bank, and that portion of the Message was referred to the Committee of Ways and Means. Precisely the same thing occurred at the commencement of the last and at the present session of Congress, in the reference which was made of that part of the Messages of the President upon the subject of the bank. The friends of this institution have been careful always to commit it to the same committee, a committee whose opinions were known. Upon the occasion first referred to, that committee made a report favorable to the bank, which was sent forth to the public, not a report of facts, not a report founded upon an examination into the affairs of the bank. At the present session, we were modestly asked to extend this bank monopoly for twenty years, without any such examination having taken place. The committee had reported a bill to that effect, but had given us no facts in relation to the present condition of the bank. They had not even deemed it necessary to ask to be invested with power to examine either into its present condition, or into the manner in which its affairs have been conducted.

From the moment the subject of rechartering was first agitated, up to this hour, no such examination had even been made. The friends of the bank had carefully avoided all investigation; we were called upon to act upon faith, and take it for granted that all was right. This was not the first time that charges had been preferred; they had been made elsewhere as well as here. They were now made in a specific form by a member of this House. The gentleman from South Carolina, in the outset of his remarks yesterday, had himself avowed that, if any tangible and substantial charges against the bank were preferred upon the authority of a single respectable witness, he would go into the investigation, whatever the consequences might be, and though such a step might deeply affect the interests of the bank. Now he submitted it to the gentleman and to the House, if the case required to be made out by him, to justify inquiry, had not been made out. He requires something tangible and substantial to be preferred, and to be vouched

upon authority. Now, a member of this House, rising in his place, brings forward his resolution, and accompanies it with certain specific charges of abuse and mismanagement against the bank, some of them, in the opinion of the member, amounting to a forfeiture of the charter. And that member, upon his responsibility upon this floor, states that he is authorized and instructed to say that the allegations thus preferred can and will be sustained. Nay, more, that member had told the House that he himself believed them to be true, and to be susceptible of proof. Was not this sufficient authority to put the House on inquiry? Was not the respectability and responsibility of a member of this House voucher sufficient to justify investigation? So far from opposing the resolution, he (Mr. P.) thought the bank, and the friends of the bank, if these charges were unfounded, should hail its introduction with a joyous welcome, as affording an opportunity for self-vindication; that it should throw open its doors and its books, and invite the severest scrutiny.

If even a well-founded suspicion existed of abuse or corruption on the part of the bank, much less direct charges, Congress certainly ought not (even if it were in all other respects proper to do so) to confer a renewal of exclusive powers on the corporation for twenty years more, without a previous inquiry into the truth or untruth of those suspicions. Previously to perpetuating its great privileges and immense powers, Congress should investigate its concerns, should see how it had been managed, how its duties had been performed, and with what effects upon the interests of the country. They should do this, even though there were not even suspicions, much less direct charges, preferred.

THURSDAY, March 1.

Bank of the United States—Inquiry into its Conduct.

Mr. WATMOUGH, of Pennsylvania, next addressed the House. The hour, he said, was late, and he felt that it would be a tax upon the patience of the House to continue this debate for a moment longer than was absolutely necessary to a clear development of the views of those with whom it had originated, and a vindication of the course which a sense of public duty prescribed to him at its outset. I am, said he, the only member on this floor against whom the charge, so often repeated by honorable gentlemen, of an intention to stifle debate upon this momentous question, can at all apply. And, although, sir, my purpose in rising at present is mainly with the view to offer to the House the amendment I hold in my hand, yet I trust I shall be excused for occupying your attention for a few moments, while I meet that charge, and assume, entirely and individually, all its responsibility. When, sir, I rose in my seat, and called for the question of consideration upon the resolution submitted by the honorable gentleman from Georgia, I was desirous that what I considered an evasion of the action of this House upon a most important and momentous question, should be met with promptitude at the very threshold, and quashed at once.

I considered the resolution, sir, in no other light than as an attempt at indefinite postponement. The rules of the House forbade me to go into an exposition of the reasons which governed me; nor have I, until the present moment, been able to obtain the floor to offer those reasons to the House. I have had no cause, sir, to change the opinion formed in the outset of this matter. On the contrary, sir, I have reason to congratulate myself at the view first taken, and thank the honorable frankness of the distinguished and talented gentleman from South Carolina, who last addressed the House, for having confirmed me in the correctness of my course. That honorable gentleman has met this question, and argued it entirely on the ground of postponement. In that light only can it be viewed, how much soever to the contrary honorable gentlemen may protest. In that light only did I view it, when, by the impulse of my own unaided, uninstructed judgment, I rose to a question of order, and dared the responsibility with which the friends of the resolution immediately attempted to load the bank. On that point of order, sir, I was overruled; and, much as I regretted the decision of the Chair against me at the time, I have since had abundant cause to rejoice in the opportunity which was thus offered to the most brilliant and triumphant display of the highest order of talents on the part of the distinguished chairman of the Committee of Ways and Means. No sooner, sir, had the honorable gentleman from Georgia unfolded his budget; no sooner had he developed his long list of crude, indefinite charges, not vouched for by himself, and only supported by a vague suspicion in his own mind that all could not be as it should be, than the honorable gentleman from South Carolina rose in his seat, met these charges triumphantly, and most triumphantly refuted them to the satisfaction of every calm and unprejudiced mind. To that refutation, ample and complete as it was, I can add nothing—nothing is desired. It left no ground untouched. It levelled completely the airy fabric raised, no doubt, with so much labor; and there the matter ought of right to rest. But, sir, it seems the opponents of the bank seek not conviction; they clamor for scrutiny. The debate has been continued—the charges dilated upon; and, sir, notwithstanding their stale, flat, and I do contend, so far as their consumption of the time of this House, and their encroachment upon the important interests of the country at large go, their truly unprofitable character, yet are we to be forced, prematurely, into the general merits of a question not properly before the House, and upon which it becomes us to

enter with all due sobriety of argument and feeling.

Mr. FOSTER, of Georgia, said that from the commencement of this discussion the strong ground of opposition to the resolution offered by his friend and colleague (Mr. CLAYTON) was, that the investigation proposed would have the effect to postpone the decision of the question whether the United States Bank should be rechartered to the next session of Congress. And it had been asked, over and over again, why this investigation had not been sooner proposed. Now, said Mr. F., I have never heard such an objection from such a quarter, with less grace; and for the correctness of the statement I am about to make, I appeal to the candor and to the recollection of every gentleman present. We have just been reminded by the honorable gentleman from Connecticut (Mr. ELLSWORTH) that this subject was presented to the consideration of Congress, by the President, two years ago; and we all remember how much he was reproached for it, when the charter had yet six years to run. But the President thought there should not be too much delay in this matter. Foreseeing that an application would be made for a renewal of the charter, he conceived it due to the bank, as well as to the nation, that the policy and propriety of the measure should be fully investigated, and calmly and deliberately determined. That part of the President's Message relating to this subject was referred, without opposition, to the Committee of Ways and Means; and a report made by that committee, distinguished for as much ability as any report ever laid upon the tables of this House, sustaining both the constitutionality and expediency of the bank. No further proceedings were had on the subject during that session. At the succeeding session the President again presented it to our consideration, and a motion was then made by my colleague (Mr. WAYNE) to refer it to a Select Committee, for the avowed purpose of investigating the affairs of the bank. Was this motion sustained? No, sir, it was successfully resisted by the friends of the bank; a Select Committee was refused. Does this look like a disposition on the part of the opponents of the bank to delay an investigation into its concerns? But, sir, twelve months more rolled round; a new Congress is convened; and the President renews his suggestions as to the bank. My colleague (Mr. WAYNE) again proposed a reference to a Select Committee, repeating his intention of procuring an investigation into the affairs of this institution. But the advocates of the bank adhered to their former course; it was well understood that a majority of the Committee of Ways and Means were friendly to a renewal of the charter, and no hazard was to be run by suffering a committee who might entertain different opinions to inquire into the management and operations of this great corporation.

The subject being thus disposed of, no other movement was made, and no other proceeding took place, until some time in January, when the memorial of the directors of the bank praying for a renewal of their charter was presented to the House. The opponents of the bank, still anxious for the investigation which had been so repeatedly refused, conceived that the reasons for it were now greatly increased; nor indeed was it imagined on what ground the advocates of the bank would longer resist. A motion was accordingly made to refer the memorial to a Select Committee. In what spirit, Mr. Speaker, was this proposition met? Who has forgotten the agitation it produced? Sir, the House was kindled into a flame. The friends of the bank were rising in all quarters, and protesting with uplifted hands against this motion. The interests of the bank were not to be hazarded by being committed to those who might be unfavorable to it. An honorable gentleman from Pennsylvania (Mr. COULTER) frankly told the House that he had no idea of sending this application to a committee of its enemies "to be strangled." "Let it go to its friends," said the gentleman: "let it be referred to the Committee of Ways and Means." Well, sir, the friends of the bank again prevailed; the reference they had urged was ordered by the House; the investigation so anxiously sought was thus again virtually refused; and in due time, as everybody expected, a bill providing for the renewal of the charter was reported. And now, when this question, in which the great interests of this country are so deeply, so vitally involved, is about to be considered and determined, another gentleman, who has but recently become a member of this body, and who has obtained such information as to the management, or (rather) mismanagement of the bank, as to feel it his duty to ask for a formal examination into its affairs, comes forward, and moves for a committee for that purpose, and, to obviate every pretext for shunning this examination, he exhibits specific charges as to the abuses practised; and what do we behold, sir? The gentleman is met at the threshold, and told that he is too late; that the investigation ought to have been had sooner; to institute it now would produce such delay that the bill which has been reported could not be acted on during the present session.

Really, Mr. Speaker, it is somewhat amusing to refer to the various objections which are made to every proceeding affecting in any way the interests and prospects of this institution. When the President invited the attention of Congress to this subject two years ago, it was said he was premature: the bank, its friends, and dependents not only complained, but the Chief Magistrate was denounced in most unmeasured terms. The suggestions in his second Message were received and treated in the same manner—it was still quite too soon to agitate the subject. Now, the adversaries to the bank, after having so repeatedly tried in vain to have an investigation into its affairs, are gravely told they have waited too long. The President was

too early, and we are too late! Too late, sir? Are gentlemen serious? Can they flatter themselves with the hope of avoiding this investigation on such grounds?

But, I have not yet done with the delay which it is alleged this investigation may occasion. Admit that there may be some delay. Is the inconvenience to which this moneyed aristocracy may be subjected by the procrastination of a few weeks, or even months, to be put in competition with the vast interests of the whole people? Suppose that the charter of this bank was about to expire, and the bill for its renewal was now before us for final decision, and the grave and serious charges now exhibited were brought before us at the very last hour: would it not be the bounden duty of this House to pause and inquire into them, rather than rush on, and, by one single act of rash legislation, commit the dearest and best interests of this country for twenty years to come? But here, sir, this extreme case does not exist: this charter has yet four years to continue, and, I fear, the country four years to suffer. Whence, then, the pressing necessity for this hasty disposition of the subject? Indeed, Mr. Speaker, I should be glad to know at what time the directors of the bank themselves discovered the very great importance of having this matter determined on at this session of Congress. The stockholders did not seem to be aware of it at their meeting in September last, when they gave the directors discretionary power to apply at this session or not, as they might deem advisable. Had the necessity of a speedy application been so very obvious, the order for it would have been peremptory. And, sir, if the directors, in the exercise of this discretion, conceived it their duty to make the application at this session, why was it not done at the commencement? Whence the necessity of first throwing out feelers to ascertain the interests of Congress? Why was an envoy extraordinary sent on by the bank to this city in December last, to consult and advise as to the propriety of making this application? And why did the directors wait for his despatches or reports, before they could decide whether to exercise the powers with which they were clothed? Was it the intelligence they received from Washington that convinced them of the urgent necessity of making immediate application?

Sir, I confess there is something strange in all this; and most assuredly, after the bank has suffered six weeks of the session to elapse before presenting its memorial, it comes with very bad grace from its friends to charge its adversaries with having delayed, for one short month after the memorial was presented, before they demanded an investigation into its concerns.

As additional evidence of the determined resistance which has been made to a thorough investigation of the affairs of the bank, I beg leave now, Mr. Speaker, to recall the recollection of gentlemen to the proceedings which have taken place on the resolution of my colleague, (Mr. CLAYTON.) When this resolution was submitted to the House, its postponement for a few days was requested, and readily assented to. It subsequently came up in its order in the business of the House; and when the mover was about to explain the reasons why he had introduced it, he was suddenly intercepted, and the question of consideration made by the honorable gentleman from Pennsylvania, (Mr. WATMOUGH,) a question which, had it been entertained by the Chair, placed it in the power of a majority of the House to prevent all debate—the very object which the gentleman will no doubt candidly own he had in view. Yes, sir, had not this question been declared out of order, all discussion upon this resolution would have been prevented; every tongue would have been hushed into silence; and not only would the proposed investigation have been refused, but even the privilege of giving a single reason for it would have been denied.

Mr. MCDUFFIE said his views remained unchanged by the debate. The charges had vanished into thin air. He very humorously combated that particularly which referred to the case of alleged usury in Kentucky, illustrating the effect of a demurrer to a plea from a case in Tennessee of hog and turkey stealing. He concluded by asking of Mr. WATMOUGH as a personal favor to withdraw his amendment. It would place Mr. McD. in a delicate situation, and was, besides, contrary to parliamentary usage.

Mr. WATMOUGH stated that, in offering the amendment which he had had the honor to submit, he had had no objects but those he had already fully explained to the House. He trusted he should not be misunderstood. The firm conviction of his own judgment would still induce him to adhere to the course which a sense of duty had prescribed to him. Indeed, the views taken by the distinguished chairman of the Committee of Ways and Means, so far as the bank was concerned, fully sustained him in that course. He could not fail, however, to feel a becoming diffidence in his own judgment, when he found it conflicting with the sound discriminating mind of the honorable gentleman from South Carolina. Besides, that gentleman had appealed to him on personal grounds. He fully appreciated the feelings and motives of that honorable gentleman, and however much the act might conflict with his own convictions, or might ultimately affect the important question, he felt himself bound to accede to the personal feeling of the honorable member, and therefore withdrew his amendment.

Mr. CLAYTON obtained the floor, and, as it was past four o'clock, moved an adjournment.

The House then adjourned.

THURSDAY, March 8.

Bank of the United States—Inquiry into its Conduct.

The bank resolution being again taken up,

Mr. BEARDSLEY said: Although it is not my intention to review all the charges which have been exhibited by the honorable gentleman from Georgia, (Mr. CLAYTON,) yet I will solicit the attention of the House to a part of them. Take, sir, the first. It is "the issue of seven millions and more of branch bank orders as a currency. The president of the bank admits seven millions issued."

Such, sir, is the charge. It is the issue of these orders as a currency which is alleged to be unauthorized by the charter of the bank, and not that the bank is prohibited from dealing in exchanges, or from accepting bills of exchange. No doubt the bank may properly do both, but the issue of these orders to circulate as money is a very different operation. On their face, these orders are a mere request to the cashier of the United States Bank to pay the sum therein expressed. But being printed on bank note paper, with the name of the United States Bank in large capitals, and having the general form and similitude of bank notes, they have passed into general circulation as such. I shall not controvert the position, Mr. Speaker, that the bank may become a party to these orders, by accepting, that is, agreeing to pay them, and thereby be legally bound for their payment.

The honorable gentleman from South Carolina (Mr. MCDUFFIE) says, the bank, "having authorized the branches thus to draw upon it, is responsible for the drafts." That authority, as he says, was given in advance, and an authority to draw is an acceptance. I shall not controvert the legal proposition, nor will I deny the existence of the authority as alleged. I may, however, remark that the drafts themselves furnish no evidence whatever of any such authority, or of any acceptance or agreement by the bank to accept and pay them. Looking at these orders, then, I aver that their use, as a currency, is not authorized by any provision in the bank charter: they do not of themselves bind the bank. If the bank is in any way liable for their payment, it is in virtue of some separate and independent agreement or authority to draw. I bring the matter to this short issue. Let us have proof of this separate agreement or authority, in virtue of which alone the bank can be deemed a party to these drafts, or responsible for them.

The bank, for aught I know to the contrary, may be entirely faithful in the observance of all its honorary engagements. These orders, therefore, may be promptly paid when presented. No public or individual injury may result from their issue. But it certainly could never have been designed by those who chartered this institution, that it should be at liberty to invent, and use as the currency of the country, checks drawn upon the bank, or any other contracts, which did not of themselves bind the bank for their payment. If a principal object in the incorporation of the bank was to secure to the country a sound currency, these checks have failed to effect that object. Of themselves they are not a sound currency, and it is due to the people of the United States, who receive them as money, that we should ascertain by proof whether the bank has in any manner bound itself for their payment.

The decision of the circuit court in Pennsylvania, relative to the character and effect of these checks, seems to have been greatly misapprehended. That decision places the liability of the bank on the sole ground that the bank had been in the habit of adopting and confirming such drafts, and was bound for their payment "on the same principle that individuals are liable on the contracts of their wives and servants, who have been permitted to deal on their credit and in their names." On such a state of facts the bank would no doubt be liable, and yet the use of the orders as currency would be equally objectionable. The paper currency issued by a bank, ought, of itself, to bind the bank, without rendering it at all necessary to prove the habit or usage of the bank to receive and pay such currency when presented.

Another charge, which has been made against the bank, is "usury on broken bank notes in Kentucky and Ohio; they amounted to $900,000 in Ohio, and nearly as much in Kentucky." I have no information, sir, which will warrant the expression of any opinion by me of the truth of this charge. The honorable gentleman from Georgia, (Mr. CLAYTON,) in speaking of this and of all the other charges brought forward by him, says he is confident they can be maintained; "he had not made them without the best reason." This assertion of the honorable gentleman he (Mr. B.) supposed was of itself ample cause for the institution of an inquiry. But the charge as brought before the House was not entirely unsupported by the evidence which had been adduced to sustain it. A law case had been read from the reports of the Supreme Court, and from which it appeared that the bank, in that instance, had loaned at their nominal amount notes of the Bank of Kentucky and its branches, and which notes in fact were worth, at the time, only fifty-four per cent. of their nominal amount. In that case, these facts had been set up as a defence against the demand of the bank, and by the bank admitted to be true. The court adjudged it a clear case of usury, and upon such a state of facts, he believed no person could well question the soundness of that decision, both in a legal and moral point of view. The honorable gentleman from South Carolina, (Mr. MCDUFFIE,) however, says that "the whole of these alleged facts, going to make out a case of usury, are denied, and can be disproved." This may be so, sir, and, if so, I think the bank should desire an opportunity to disprove them, for of them-

selves they certainly present a case of unmitigated usury and oppression. We should, however, insist on some better evidence to disprove what the bank had admitted on the record, than the note of the reporter annexed to the case. That note purports to give an "authentic and explanatory statement" of the facts of the case as furnished to him, in order to disprove the allegation of usury. He (Mr. B.) would not deny the truth of that statement; he had no knowledge of the case, except from the printed report. It appeared, however, to him not a little remarkable that the bank should have admitted the facts to be as alleged by the defendant in the case unless they were susceptible of certain proof. For the purpose of sustaining this inquiry, however, he (Mr. B.) thought the House should certainly take the admission made by the bank as true, leaving it to disprove that admission if it could do so.

But an apology has been offered for this act of the bank. It received them in the course of its business, as is alleged, at par, and they became depreciated while in their hands; hence the argument is, it had a right to pass them off at par. This may be the morality of the bank, but it is not the morality of the law or of the country at large. It would not even be tolerated under the system of bank government in New York, vicious as that has been represented to be by my honorable colleague, (Mr. ROOT.)

Another specification of the honorable gentleman from Georgia (Mr. CLAYTON) has been entirely misapprehended. I refer to the charge of "making a difference between the members of Congress and the citizens generally, in both granting loans and selling bills of exchange. It is believed it can be made to appear that members can obtain bills of exchange without, citizens with a premium; the first give nominal endorsers, the others must give two sufficient resident endorsers." This, sir, has been understood by the friends of the bank to refer to the pay of the members of Congress, and to reprobate the practice of the branch bank here in giving the members drafts on such parts of the Union as gentlemen may desire. He (Mr. B.) regarded it as a very different charge. The members were paid by the Government, and the bank by its charter was bound to transfer the funds of the Government to any and every part of the Union where branches were established. He saw no objection whatever to the course which the bank in this respect had pursued: but if, as he had heard it alleged, the bank, in its ordinary business, discriminated between members of Congress and citizens, drawing bills in favor of the former upon any part of the Union, without a premium, while the latter were obliged to pay for similar accommodations, he could not but regard it as offensive in its character, and subject to ready misconstruction. He had heard this practice spoken of out of doors, and one instance particularly specified. While he (Mr. B.) expressed his belief that no member of Congress had ever sought thus to avail himself of the accidental advantage of his position, he deemed it no less proper that an inquiry should be made, that the public might be informed of the fact, if in truth any such discrimination had been made in the business of this institution.

Although entirely unwilling to prolong this discussion, Mr. B. said he would notice another of the specified abuses of the bank. The language of the specification is, "subsidies and loans, directly or indirectly, to printers, editors, and lawyers, for purposes other than the regular business of the bank." This, too, sir, said Mr. B., has been misapprehended. It is not made a charge against the bank, that it discounts notes for printers, or for any other class of citizens; but the charge is, that subsidies and indirect loans are made to these classes of persons, for purposes other than its regular business.

We know the power of the press. It is a mighty lever when brought to bear upon public opinion. Its influence may often be nearly resistless, in giving a direction to that opinion. Now, sir, the charge is, that the bank has aimed to corrupt and control the press—to sway the editors and conductors of public journals, by its money and its patronage. The charge, sir, is grave and important in its character, and should not be made without good authority to sustain it. I will not, sir, express any opinion of its truth or falsity; I will wait for the proof. I have heard of enormous loans to particular editors, upon nominal security; but the subject was too delicate in its character to admit of greater particularity in referring to it. He felt himself, however, entirely at liberty to speak of what had been distinctly averred in the public papers, and which he (Mr. B.) had not seen disputed or contradicted in any one. He (Mr. B.) referred to a statement which had recently been published, that seventeen hundred dollars had been paid by the bank to certain printers in Philadelphia, for publishing copies of a report which was made in this House two years since, in favor of rechartering the bank. It was added, in the statement referred to, that the individuals employed to print this report were, when so employed, the printers of the only paper in that city, adverse to the bank. He had given the authority upon which he made this statement, and could not say but that it was an entire fabrication. He, however, had not seen it anywhere denied. And, if true, it might perhaps not justly be liable to any suspicion of an improper design in thus bestowing its patronage. He did not intend, at this time, to draw any such inference from it. He, however, could not forbear asking upon what principle the bank could justify this expenditure of the money of the stockholders. The United States owned one-fifth part of the capital stock. Had they at any time authorized such an expenditure of the public funds? Another large proportion of the stock, it was said, was the property of "widows and orphans." Upon

what principle could the bank justify the application of their money to such a purpose? The report was a very able one, and deserved a thorough perusal; but he was not aware that it was at all proper to distribute it at the expense of the United States, and of the bank stockholders. For aught he could see, the expenditure would have been as well authorized by the charter, had it been for lottery tickets or in a bet upon a horserace. Such a disbursement, however, might not have served any beneficial purpose. It might neither have regulated the currency nor regulated the press of the country.

It appears to me, said Mr. B., entirely proper that this investigation should take place, and I should think it might well take a wider range than has been contemplated. I should be glad to learn upon what principles the bank has governed itself in the establishment of branches in the several States; what objects it has had in view in the increase and location of these institutions, and in the selection of directors to control them. The prominent arguments which have been urged in favor of the national bank, with power to establish branches, are their safety as places of deposit for the national treasures, and that they throw into circulation a currency of equal value and common use throughout the Union. If branches have been established in reference to these objects, I will not pretend that the privileges conferred by the charter have been, in this respect, violated. But if, on the other hand, these objects have been lost sight of in the location of branches, if other designs have been kept in view in deciding upon such measures, and especially, sir, if branches have been established, or directors selected with a view, at this time, to secure influence in this House, such motives, I am satisfied, would neither meet with approval or toleration here; but, on the contrary, with an unqualified condemnation, both here and throughout this whole country.

Mr. WAYNE endeavored repeatedly to obtain the floor, with a view to offer an amendment to the resolution of Mr. CLAYTON; but

Mr. BELL, of Tennessee, said, I intended to have voted for the resolution submitted by the gentleman from Georgia, before the friends of the bank generally manifested their acquiescence in the propriety of yielding to the inquiry. I considered such an investigation of the affairs of the bank as was proposed, not only proper and desirable for the purpose of satisfying the country in regard to its true condition, but it appeared to me to be peculiarly proper that the inquiry should be instituted, as, under the circumstances of the demand of a committee, suspicions of abuses in the management of the bank, injurious to its character and usefulness, must have been the consequence of a refusal of the investigation. If the proposition for the inquiry had been submitted without any allegation of actual abuses, upon reflection, I am disposed to think the precedent that would be established by acceding to it, as highly useful and proper in such a case. I am of the opinion expressed by the gentleman from New York, (Mr. BEARDSLEY,) that such an inquiry as is now proposed should precede every renewal of such an institution. In an affair of such general and diverse interests, nothing should be taken upon the representations of those who have, or may be supposed to have, an interest either in withholding any material information, or of giving a false coloring to such as they might think proper to afford. Besides, under all the circumstances, to assure the public confidence, and to vindicate this House itself, should it proceed to vote a renewal of the charter of the bank at the present session, from any imputation of undue influences, it appears to me that the most unreserved opportunity should be given to the enemies of the bank of exploring its most secret affairs, should they require such a privilege. The slightest shade of suspicion which may rest upon it, from whatever cause produced, should be removed, by yielding a ready acquiescence to the most rigid scrutiny in the power of the opponents of the bank to devise. I would have supported the proposition of the gentleman from Georgia upon another ground, without any design to prejudice the interests of the bank. If there are any concealed transactions of the bank of a reprehensible character, or any abuses of the privileges conferred upon it, not known to the public, it is of importance that they should be brought to light, in order that they may be guarded against or prevented in future, by the terms of any new charter of the same, or of a similar institution, which may be granted; for I consider that if all the charges brought against the bank by the gentleman from Georgia should be established, they would still not be conclusive against the recharter of the same bank, or of a new one. They would only go to demonstrate the propriety and necessity of exercising the greatest circumspection and vigilance in settling the terms and conditions of a new charter. They would, at most, amount to nothing more than arguments addressed to the consideration of the House, and of the public, and their probable recurrence would remain to be weighed against the public convenience and utility of any such institution.

I would not have voted for the resolution of the gentleman from Georgia, for the purpose of defeating the final action of Congress upon the bank question at the present session, as has been alleged to be the probable motive of some who were inclined to favor the proposition for inquiry. I would have considered such a course as wholly indefensible. But, sir, when the question shall arise upon the bill reported by the Committee of Ways and Means, I desire it may now be distinctly understood that I shall be in favor of the postponement of the subject to a period beyond the term of the present Congress; and as a motive has already been ascribed to those who favored a postponement

of the main question, I feel it due to myself to reply to such suggestions as have been thus thrown out with the apparent intention of denouncing in advance any movement for that purpose.

I hold that any motive which is fit to be acted upon by any member of this House, is fit also to be avowed, and I, for one, will not omit to avow the motives which govern me upon this question. I am willing that it shall be decided by those to whom I am directly responsible for my course here, and by all honorable men, whose good opinion I hope I shall always seek to desire, whether, in the course I shall pursue, there is any shrinking from public duty, or any surrender of that independence of personal and legislative action, which becomes a representative of a portion of the people upon this floor.

More has already been said, and still more may have been felt, than I consider necessary or even proper, respecting the connection which is supposed or alleged to exist between the decision of this question at the present session of Congress, and the pending Presidential election. I admit the truth of the proposition to the fullest extent, that questions of great public interest should not yield or be postponed on the ground of any probable effect their decision may have upon the elevation of one man or another to mere place or power. I trust that I do, and I confidently hope I ever shall, feel an unmixed indifference, and even contempt, for that sort of partisan zeal and anxiety which is sometimes exhibited in the elections of the high officers of the Government, and which have no higher or more patriotic objects in view, than to secure the possession and control of the subordinate offices of the Government, with their attendant emoluments; yet, sir, I do not fear to avow, in the present case, whatever might be the importance to the public interests, that this question should be settled now; that if, in my judgment, there were questions and interests of still greater magnitude—questions and interests connected with the permanent well-being of this numerous and free people, which would be endangered by the action of Congress upon the question of the bank at the present session of Congress, I would not hesitate to make that the ground of opposition to it. In all such cases of conflicting interests and objects, I would feel it my duty to adhere to those which I regarded as the paramount ones. I would so regulate my conduct in the present case, if I considered it of such a nature. I feel the difficulty of taking the course I shall take, without subjecting myself to the imputation of acting upon this principle, in the present instance; but I will leave it to be inferred from the ground I shall presently state, whether there are not sufficient and cogent reasons for the postponement of this question, of a different kind; and whether, if any interest is to suffer by acting upon this subject now, it is the bank interest, or any one of equal or greater importance. As to the propriety of rechartering the bank, I will say that I am friendly to the policy of giving to, or of maintaining the exercise of the power of this Government, of administering a corrective to a vitiated, excessive, or fluctuating currency; and I hope that the proposition to recharter the present bank will assume such a shape, that I can give my vote in favor of it. I am of opinion that it is important, if not essential, to the safe and economical administration of the public revenue that this Government should possess such a power; and I am not prepared to admit that, under the constitution, this Government may not, upon some safe principle, employ its own citizens as its agents and auxiliaries in the management of its fiscal concerns, and, at the same time, co-operate with it in exercising a salutary control over the general currency, upon a sound state of which all must admit the financial resources of the country must always greatly depend. I will go further, and say that I think the public convenience and interest would be greatly consulted in continuing the employment of the capital now vested and in circulation, upon an organized plan for the purpose of effecting those objects. But still entertaining these opinions and views, as I do, I cannot admit the doctrine that a bank is the chief end of the Government, or that every sound maxim or principle which should govern the legislation of Congress, should give way, in order to secure the benefits of the present one. I beg to be understood, in what I have said of the principles which should govern Congress, as not alluding to any bearing which this question may have upon the Presidential election. I will explain, before I have done, to what I allude.

But before I proceed to state the grounds upon which I think the question of the rechartering of the bank should be postponed, I will make some remarks, as I intended, in rising to address the House, upon what has been thrown out in the course of this debate in relation to the opinions of the President upon this subject. I am not responsible for the introduction of this topic into this debate. It has been brought into the discussion by others; and what I shall say, I consider proper only in the way of reply. Gentlemen of both sides of this question have thought proper to give their own versions of the views of the President, communicated to Congress in his public Messages. On one side, gentlemen infer from the written communications of the President to this House, that he has expressed an opinion decided and unalterable against the bank, or, in other words, that he stands committed against it, in whatever shape or form a proposition for rechartering it may come; while, on the other hand, other gentlemen contend that he has referred the whole matter to Congress, in such terms as to leave no ground to doubt but that he will sanction any bill which Congress may present for his approval. Now, sir, no doubt gentlemen are sincere in the expression of their opinions, upon

this subject, although both sides deal in extremes, and the position taken by neither is true. I deny that there is any fair or reasonable pretext discoverable either in the language or sentiment of the Messages of the President for this great diversity of opinion as to what he has communicated to Congress upon this subject. The candid and impartial inquirer must admit that the language employed is not equivocal or oracular. That two opinions, so directly opposed to each other, should exist, as to the true import of the several passages in the Messages of the President upon the subject of the bank, can only be accounted for by the diversity of the feelings and interests of those who differ so widely. I have the Messages before me; I have considered them carefully, and I find no warrant for either of the opposite conclusions which gentlemen have drawn from them. That the President has openly, and fearless of consequences, braved the opposition of all those who are so proscriptive in their feelings upon this subject—who are so exclusively devoted to the interests connected with the bank, that they cannot sustain or countenance any public man who ventures to differ with them as to the amount of the benefits the bank has conferred upon the country, or who can see any constitutional objection to the bank as at present organized, is not, and cannot be controverted. That, admitting the expediency of some institution of the kind, the President, for himself, would prefer one organized upon a very different plan from the present one, is equally clear; but that he has on one side or the other intended to commit himself, or that he has, in fact, committed himself upon the question of rechartering the present bank, with some modifications of its present charter as may be proposed, I deny. I maintain that in all his communications to this House upon this subject, he has manifested a due and respectful deference for the opinion of the people, formed upon sufficient consideration, and deliberately expressed through their constituted organs; and that he has clearly reserved to himself, as he ought, the privilege of determining his final action upon the subject, under all the circumstances of the case and of the country, when a bill shall be presented to him for his approval or rejection. This is my judgment upon the several passages to be found in the President's Messages upon this subject, and I do not believe that any gentleman is authorized to speak of the views of the President further than he has thought proper to disclose them in his Messages. Sir, when the President shall be called to act finally upon this question, that he will do so under a full and solemn sense of his responsibility to the country—upon a deliberate consideration of all the great interests connected with the question, and in perfect consistency with his own character, I do not doubt.

A long contest now arose, as to the fact whether Mr. ROOT had or had not withdrawn his amendment, (which proposed that the Committee of Investigation should consist of seven members, to be appointed by ballot.) Mr. R. insisted that he had not withdrawn it: Mr. WAYNE that he had. After a very desultory conversation, it was decided by the Chair that the amendment had not been withdrawn; and the question was, thereupon, propounded upon its adoption.

Mr. ROOT called for the yeas and nays. They were taken accordingly, and stood—yeas 88, nays 92.

So the amendment was rejected.

Mr. WAYNE offered the following amendment:

Resolved, That a Select Committee be appointed to meet in the recess of Congress, to inspect the books and examine into the proceedings of the Bank of the United States, and to report by the third Monday in December next whether any provisions of the charter have been violated, and particularly such violations of the charter as may have been made since the 16th day of January, 1819; and also to report especially whether the said bank has, at any time, and to what amount, issued any bills, notes, or drafts, to be circulated as currency, contrary to, or evasive of, the provisions of its charter; whether the said bank has, directly or indirectly, dealt or traded in any thing except bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent, and not redeemed in due time, or goods which have been the proceeds of its lands; whether the said bank has directly or indirectly charged or received for or upon its discounts and loans, from the time the same were made until finally repaid, more than at the rate of six per cent. per annum; whether the said bank has had or owned, or has or owns, any lands, tenements, or hereditaments, except such as are requisite for its immediate accommodation in relation to the convenient transaction of business, and such as have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which had been obtained for such debts. And also to report the amount and kinds of specie and bullion imported into the United States by the bank, the cost of the same, and the arrangements for procuring it; the amount of specie exported by the bank, and for what objects, and the amount sold by the bank for a premium, or upon discounted paper and a premium, for exportation; the amount of specie furnished by the bank to any department of Government, and at what premiums, with a report of the amounts of specie received or drawn by the bank from incorporated banks in the States, and in the District of Columbia; the amount of bills, notes, or checks of the State banks, and of the banks in the District of Columbia, acquired by the Bank of the United States and its branches, distinguishing the amounts from each, and the manner the same were acquired; the manner in which said notes, bills, or checks have been redeemed by said banks from week to week, or at other intervals, as may have been stipulated between the Bank of the United States and such banks, showing the contracts with each for the redemption of the notes or bills of each, and the amounts of interest severally paid by said banks to the Bank of the United States, upon the bills, notes, or checks held by the

bank; the sums loaned by the Bank of the United States to State banks, and to banks in the District of Columbia, the interest upon the same, and in what manner the same were repaid, with a report of the profit received or made by the bank, by premiums upon foreign and domestic exchange, and the rates of exchange established by said bank from time to time, and if the sum have been fixed with a due regard to the course of trade; with a report of its dealings in foreign exchange on its own bills, and at what rates, and with such as have been bought by the bank from individuals, copartnerships, or incorporated companies, and the advances charged upon the sales of the same; with a report of the issues of post notes, or notes payable to order, issued by the bank, the withdrawal or redemption of the same, and of checks drawn, and at what rates sold; with a report of the funds of the United States received on deposit by the Bank of the United States and its branches, distinguishing the same as to time and amounts, of the sums transmitted by the bank for the Government, and to what places, the times when done, the modes of transfer, and the cost, if any, to the bank, for doing the same, and whether the same has not been done, and given a profit to the bank; with a report of the profits made by the bank by discounts and exchange upon Government deposits, and of the loans made by the Bank of the United States to the Government of moneys advanced to the Government, or to either of its departments, and the interest or premiums paid by the Government for such loans or advances; with a report of the different kinds of stock pledged to, or at any time owned by, the bank, in any other bank, or incorporated company, railroad or canal company, particularly distinguishing how the same was acquired and parted with, and of the sums loaned to, or advanced or given to, any incorporated or unincorporated railroad or canal company, and the terms upon which the same were made, and the inducement for any donations which may have been made, and the authority of the bank in the charter for doing the same. Also, to report if any and which of the branches of the said bank have been unproductive from the establishment of them, and what salaries have been given to the officers of such unproductive branches, and the amounts or kinds of bills or notes, and where payable, which the bank has, from time to time, transmitted to its branches.

That the said committee have leave to meet in the city of Philadelphia, and to remain there as long as may be necessary; that they shall have power to send for persons and papers, and to employ the requisite clerks, the expense of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of the House.

FRIDAY, March 9.

Commodore Decatur's Heirs.

The bill was further debated by Mr. SLADE and Mr. BURD, who both were opposed to the amendment offered on Saturday last by Mr. DAVIS, of Massachusetts, and addressed the House at length in support of their respective views; when

Mr. DICKSON moved to strike out the enacting clause of the bill, (which amounts to its rejection,) but the motion was negatived—yeas 62, nays 70.

The committee rose, and reported the bill to the House without amendment.

Mr. DAVIS moved the same amendment he had previously offered in Committee of the Whole; rejected—yeas 78, nays 102.

Mr. PEARCE moved the amendment he had formerly proposed, also rejected—yeas 80, nays 95.

The question was taken on the engrossment of the bill, and it was decided as follows:

YEAS.—Messrs. Adams, Adair, Anderson, Archer, Barringer, James Bates, Bell, Bouck, Branch, Briggs, J. Brodhead, J. C. Brodhead, Bullard, Cambreleng, Carson, Chinn, Clay, Collier, L. Condict, S. Condit, Corwin, Coulter, Craig, Dayan, Dearborn, Denny, Doubleday, Drayton, J. Evans, E. Everett, Ford, Gilmore, Gordon, Heister, Hogan, Holland, Horn, Howard, Hubbard, Ihrie, Isacks, Jarvis, Jenifer, R. M. Johnson, Cave Johnson, C. C. Johnston, Kavanagh, H. King, Kerr, Lent, Lewis, McCarty, McDuffie, McIntire, McKennan, Mercer, Milligan, Muhlenberg, Pendleton, Pierson, Pitcher, Polk, E. C. Reed, Smith, Soule, Speight, Stephens, F. Thomas, P. Thomas, Verplanck, Washington, Watmough, Wayne, Weeks, C. P. White, E. D. White, Wickliffe—78.

NAYS.—Messrs. C. Allan, Allison, Armstrong, Arnold, Ashley, Babcock, Banks, N. Barber, J. S. Barbour, Barnwell, Barstow, Beardsley, Bethune, James Blair, John Blair, Burd, Cahoon, Carr, Chandler, Claiborne, Coke, Conner, E. Cooke, B. Cooke, Cooper, Crane, Crawford, Creighton, Daniel, Davenport, J. Davis, Dewart, Dickson, Doddridge, Duncan, Ellsworth, G. Evans, H. Everett, Felder, Foster, Grennell, Griffin, T. H. Hall, W. Hall, Hammons, Harper, Hawes, Hodges, Hughes, Huntington, Irvin, Jewett, Kendall, J. King, Lamar, Lansing, Leavitt, Lecompte, Lyon, Mann, Mardis, Marshall, Maxwell, W. McCoy, R. McCoy, McKay, T. R. Mitchell, Newnan, Pearce, Potts, J. Reed, Rencher, Root, Russel, W. B. Shepard, A. H. Shepperd, Slade, Southard, Spence, Stanberry, Standifer, Storrs, Taylor, J. Thompson, Tompkins, Tracy, Vance, Vinton, Wardwell, Wheeler, E. Whittlesey, Williams, Young—95.

So the bill was rejected.

MONDAY, March 12.

Bank of the United States—Inquiry into its Conduct.

The House resumed the consideration of Mr. CLAYTON's resolution, together with Mr. ROOT's amendment, [which was reconsidered March 9,] to appoint the committee by ballot.

Mr. BLAIR, of South Carolina, said: If the amendment of the gentleman from New York, is adopted, it will be carried by the vote of those friendly to the bank. The same members will then hand in their folded tickets, and elect a committee, the majority of whom, if not the whole, will be in favor of renewing the charter, and friendly to the bank; and that institution will have nothing to apprehend from

the result of their inquiries. We will see exhibited the absurd farce of the accused sitting in judgment upon its own trial, or rather deciding whether it will submit to be tried even by its own particular friends. Yes, sir, said Mr. B., all this will be done, and the American people will be left to guess at the agents by whom it is effected. They will be left to guess at the names of those who have constituted the bank the sole judge in its own cause. A committee friendly to the bank, and disposed to screen the malversations of its officers, will be selected by an agency perfectly irresponsible, because unknown to the people. Now, sir, said Mr. B., I would ask, is this the course of conscious rectitude and innocence? Is this the course an honorable, high-minded individual would pursue, when his official character has been implicated and slandered? Would he not instantly demand a court of inquiry, and, instead of shunning, would he not court investigation? Finally, he would ask the friends of the institution themselves, if they could hope to sustain its character and credit with the American people, by shielding it from a full, a free, and rigid examination of its condition, and of all its transactions, by a committee that has no motive to palliate delinquencies, or to cloak misdemeanors.

Mr. EVERETT, of Massachusetts, said: I am in favor of the amendment moved by the gentleman from New York, (Mr. ROOT,) and will briefly state my reasons. It has been too readily taken for granted, because this inquiry is moved by a gentleman avowedly hostile to the bank, that therefore the parliamentary rule requires that the committee should be unfriendly to the institution. I do not so understand the rule; I admit that the committee ought to be friendly to the inquiry; that is to say, willing to take it up and carry it through, in good faith, not because there is any parliamentary rule to this effect, but because common sense requires it; because it cannot even be supposed that a committee will not cheerfully and conscientiously perform a duty intrusted to them by the House. There is no meaning in the proposition of a committee friendly to the inquiry, but this—a committee friendly to doing the duty enjoined upon it.

But of those in favor of the inquiry, under the present circumstances, there are two classes: one such as are friendly to the bank, and think the inquiry will result in exonerating the bank from the charges brought against it; and the other such as are hostile to the bank and in favor of instituting the inquiry, as certain to lead to delay, and likely, in their judgment, to result in the destruction of the institution. Now, I maintain that, as far as the parliamentary rule alluded to refers at all to the case, it demands that this inquiry should be committed to persons of the former and not of the latter class; to the friends and not the enemies of the institution. That rule refers to the disposition to be made of bills before the House, and what is it? It is laid down in the Manual as follows: "Those who take exceptions to some particulars of the bill are to be of the committee: but none who speak directly against the body of the bill. For he that would totally destroy, will not amend; or, as is said, the child is not to be put to a nurse that cares not for it. It is therefore a constant rule that no man is to be employed in any matter who has declared himself against it." The rule even goes so far as to require that "when any member who is against the bill hears himself named of its committee, he ought to ask to be excused."

Can any thing be clearer than this, as far as the rule goes? Can we stand on any such narrow ground as that inquiry, which is only the acting of the committee in obedience to the House—is the thing to which the committee is to be friendly? Certainly not. We must look to the substance. The matter in hand is the bank. The bill is the bill rechartering the bank; the bill now on the table. Every gentleman who has spoken to this resolution of inquiry, has spoken as directly to that bill as if it were nominally before the House. I am even of the opinion that the present motion, for this very reason, is not strictly in order; and that if inquiry be deemed necessary, the proper course would be to move to discharge the Committee of the whole House, and to recommit the bill, with instructions to inquire, to a standing or a Select Committee. This, I take it, is the true interpretation of the parliamentary rule, of which we have heard so much. At the same time, I am free to confess that I do not insist that this rule refers to questions of this nature. I do not claim the benefit of this interpretation, clear as it is, for the amendment of the gentleman from New York. As a technical parliamentary rule, I believe that usage restricts it to matters of a more private character. The rechartering of the bank is a large question, interesting to the whole country, connected with its great interests, wearing, in some respects, a political aspect, and standing far above the class of mere business matters, to which the rule is generally understood to apply. But I proceed on far broader grounds than those of technical rule, in requiring that the committee should not be hostile to the existence of the institution—the grounds of common justice and common sense.

Analogous cases have been urged upon us. It has been asked what we should think of an officer of this House, or of the Government, who, if grave charges were made against him, should insist that the investigation should be made by persons opposed to having the matter inquired into. The case is idly put; for it is not a possible supposition that any innocent man, against whom grave charges are made, should be unwilling that they should be investigated; and every man is held innocent till he is found to be guilty. But this inquiry is moved by persons who think that, whether the bank is innocent or not in the matter inquired into,

it ought to be broken down. And if gentlemen wish for an analogous case, what would they think of committing the investigation into charges preferred against an officer of the House, or of the Government, to persons who had not only declared their minds made up in regard to all the matters to be investigated, but had avowed the opinion that, whether guilty or innocent, he ought to be deprived of office, and even life? Gentlemen tell us the bank is corrupt; that it is broken, and unable to pay its debts; and that it has been conducted in the most dishonorable and fraudulent manner; that it is a great and oppressive evil, a curse to the country; and, finally, unconstitutional; and then politely ask the majority of this House, who are friendly to it, to give them, its pledged enemies, the control of this committee, avowedly to be used for the purposes of delay, and, if possible, for those of destruction. Would such a proposition between man and man be thought consonant to the rules of equity?

This demand for a hostile committee is new; it is not a fortnight old. The memorial of the directors of the bank, asking for the renewal of their charter, was presented on the 9th of January. A debate arose whether it should be referred to the Committee of Ways and Means or a Select Committee. It was understood and stated that, in either case, the committee was to inquire into the manner in which the bank had been conducted, if they deemed inquiry necessary. The gentleman from New York (Mr. CAMBRELENG) wanted the great question investigated, whether the bank should be allowed to issue orders "payable nowhere." Another gentleman from New York (Mr. HOFFMAN) wished all the "vices" of the bank to be probed. The enemies of the bank generally (with a few of its friends) voted for the Select Committee; but it was conceded on all hands, and expressly admitted by the gentleman from New York, (Mr. CAMBRELENG,) that the majority of the committee would of course be friendly to the bank. Nothing has occurred to change the question since, nor to make it any the less proper that this inquiry should be referred to persons who will take it up on the fundamental principle of justice—that every person shall be esteemed innocent till he is proven to be guilty.

The gentleman from New York, (Mr. BEARDSLEY,) who spoke at length against this amendment of his colleague, gave, nevertheless, a satisfactory reason why it ought to pass. He really conceded the whole matter now in controversy. He said that though the Speaker ought to name the committee, he should do it according to some principle to be laid down by the House. What that principle was, I did not understand the gentleman to state. Still less do I understand in what way that principle is to be laid down by the House. It is the very object of the amendment to have the committee designated on some principle approved by the House. The gentleman will not trust the Speaker to name them, but upon some principle to be previously (I know not in what way) prescribed.

It is plain there is no way by which the House can control the principle on which a committee shall be chosen, but by choosing them itself. If, indeed, the gentleman will incorporate his rule into the resolution; if he will insert after the word committee, "to consist of persons friendly to the bank," I should understand his course, and perhaps go with him. Or, if he would insert "to consist of the sworn enemies of the bank," I had almost said I would vote for such an amendment, disclosing, as it would, the policy of this movement, in the light in which the country would understand it. It would then appear that we are called upon to do a thing abhorrent to every notion of justice; and as friends of the bank, holding the fate of the institution in our hands, and responsible to the country for the continued enjoyment by the people of the advantages which it is now conferring on them, I must say it would appear that we are asked to betray a very responsible trust.

Mr. ANGEL, of New York, said: As regards the appointment of a committee to inquire into the conduct of the Bank of the United States, I do not consider it very material whether it be made in the usual manner by the Speaker, or in the unusual manner proposed by my colleague, (Mr. ROOT,) by ballot of the House. The respectful opinion I entertain of the members of this House will not permit me to believe that the committee, in whatever mode selected, will consist of other than honorable men, deeply sensible of their obligation to probe its concerns, and resolved to do their duty in a manner fearless of the bank, and honest to the country. But some of the reasons assigned by gentlemen for their great solicitude to have the committee appointed by the ballot of the House, if they cannot awaken a suspicion of their motive, appear to me very extraordinary. While they pay the highest compliments to the integrity of the Chair, express the most unlimited confidence in the Speaker, and expressly disclaim all suspicion of partiality on his part, they urge the appointment of the committee by the ballot of the House, to relieve him from the responsibility which he incurs every day, and on every other subject of appointing the committee. Why do gentlemen urge us to depart from the ordinary mode of appointing the committee, while they declare they have nothing to fear, and fear nothing from the appointment of it, in the ordinary mode, by the Chair? To justify the extraordinary course proposed, some good reason should be shown. None such has been offered, or can be pretended; and I do not feel myself justified without cause to depart from the safe and ordinary mode of appointing the committee by the Speaker, to the uncertain and extraordinary mode of a ballot.

TUESDAY, March 13.

Bank of the United States—Inquiry into its Conduct.

The House resumed Mr. CLAYTON's resolution, the question being on Mr. ROOT's proposition to appoint the committee by ballot.

[A most discursive debate ensued, in which Mr. Root, Mr. Angel, Mr. Beardsley and Mr. Collier, all of New York, took part, and in which New York politics came in for the largest share of discussion; at the end of which the question was loudly called for.]

The question was then put on Mr. ROOT's amendment, (to have the committee appointed by ballot,) and the vote thereon stood—yeas 101, nays 99.

Before the result was announced from the Chair, Mr. PLUMMER, who had voted yea, asked leave to change his vote, and then voted nay. This made the vote stand—yeas 100, nays 100.

The SPEAKER gave the casting vote in the negative; and the amendment was rejected.

The question recurred on the amendment of Mr. WAYNE.

Mr. WAYNE took the floor in support of it. When, said he, the discussion began upon the resolution moved by my colleague, (Mr. CLAYTON,) it was not my intention to have engaged in the debate. But the declarations of gentlemen, that if a Committee of Inquiry should be allowed, it must have a very limited time for investigation, and shall be considered preparatory to the discussion of the bill for the renewal of the charter of the bank at this session of Congress, induce me to remonstrate against a course which seemingly grants what is asked, but will, in effect, be a denial. If a full inquiry be intended, such as the momentous interests connected with the subject demand, the committee to which it may be confided should be altogether unrestricted. It should have the confidence which is given to all committees raised for other purposes. If it shall not have it, such an unprecedented departure from the uniform practice of both Houses of Congress, cannot fail to attract public attention, and it will demand a justification for it, of a very different kind from the ungracious suspicion so often expressed in this debate, that the resolution for inquiry has been introduced only for the purpose of postponing to another session of Congress the renewal of the charter of the bank. Gentlemen in their great anxiety to precipitate us to such a conclusion, are unjust to their opponents and to themselves, for the restriction as to time, taken in connection with their strenuous efforts to have a committee chosen by ballot—another very unusual departure from our practice—may be justifiably thought to be intended to defeat inquiry altogether, or to have a very imperfect and partial examination into the affairs of the bank. The limitation proposed must proceed from the belief that a full investigation can be made in three or four weeks, and that, either from want of industry or some sinister reason, it will not be done. Sir, the latter has been said, but with the customary caution of insinuation. Can it be right for us to make such a presumption in advance of a committee, to which any duty is to be assigned? Our legislation may be searched in vain for an example to justify any such restriction. Gentlemen are confidently asked to produce one from our journals. It cannot be done. They will show no such imputation upon any previous committee; and, in the most unoffending but positive spirit, I will say the proposition is as little worthy of the magnanimity of those by whom it will be sustained, as it will, if adopted, be derogatory to those who may be chosen to make the investigation. It strikes some of us to be so singular, that if we did not know the sincere characters of the gentlemen who have advocated it, we should say it was designed to defeat all inquiry, by making it difficult, if not impossible, for the Speaker of the House to find gentlemen who will willingly undertake the duty, under such restraints.

But, sir, they will be found; the purposes we have in view must not be defeated by any resentment which the course pursued by our adversaries may excite. My colleague, and the gentlemen who may be associated with him, will do their duty; and let me tell you, sir, what will be the result. They will report to you that they have not had time allowed to make a full and satisfactory examination, but they will report enough to convince the people of this country of the propriety and necessity of a thorough scrutiny into the management of the bank, and the operation of the system as it is now organized, upon great national interests. Do gentlemen really believe that an examination with the view of showing the extent to which the bank has fulfilled the purposes of its creation, and to illustrate, by its past operations, the future effect of such an institution upon the political condition and pecuniary welfare of this country, can be made in three or four weeks? If they do, sir, it is because they have very imperfect and limited notions of the particular topics which should be embraced in the inquiry. Four weeks will not be time enough to examine effectually into the transactions of the past year, much less to report upon the defects of a system which can only be exhibited by exposing its management and its results in detail, from the time of its organization. What led, sir, to the disastrous mismanagement of the bank during the two first years of its existence? In part, defects in its organization, which the advocates of the bank even now do not propose to remove. Powers and privileges which were abused, and which they still desire to retain. The warning voice of experience is to be disregarded; and because its chastening hand has not been felt in the last ten or twelve years, we are to be called upon to renew its charter at

this session, with very immaterial modifications. If done, it will leave the great interests which the bank was intended to preserve and regulate, to the contingency of its being always managed by intelligent and disinterested men. If the inquiry is to be limited to an investigation of the fraudulent practices which have been imputed to the bank—into which its advocates show great readiness to enter, as I believe they may well do—a day, an hour of our time, would be thrown away upon such a purpose, and I should be indifferent to the disposition which the House might make of the resolution. For, sir, opposed as I am to the renewal of the charter of the bank, I have no belief in any of those charges which assail the honor of those to whom its management has been confided, since the termination of the inquiry made by a committee of this House in 1819.

I choose to express my disbelief in strong terms, that my past, and what shall be my future attitude to the bank may not be misunderstood or misrepresented. I fear too that the generous temperament of my colleague, in his ardent pursuit of a public duty, has hurled him into charges against the bank which he will find cannot be sustained. Some of them are imputations, only because the power to commit them exists, and others are the suggestions of persons, whose interests having been interfered with, have a reckless disregard of what is due to the characters of honorable men in a responsible public trust. That there have been instances of abuse and impropriety by some agents of the bank, cannot be denied; occasional violations of the charter, in its letter and spirit, I can show and prove; habitual extensions of the letter, contrary to the spirit of the charter, exist; but, sir, I am urged by candor, as well as by a desire to prevent the bank from using a triumphant vindication of itself from unfounded accusations, to cause popular reaction in its favor, to declare that we have no proof, nor grounds for strong suspicion that the affairs of the bank have been corruptly managed; or that it has pursued a course under the powers which it possesses, inconsistent with what persons in trade consider to be the allowable usages of trade, and which would be common to all corporations of the same kind having similar powers; or that it has by enormous gratuities conciliated eminent professional gentlemen to give to it political support; or that it has by loans, in any unaccustomed way of making them, and without proper security, bought auxiliaries or subsidized the press. Sir, professional honor in this country, and that of such men as the bank employs to advise it, is above temptation. Their services require and entitle them to liberal compensation. And as for the press, it is not for light causes in this country and in this age that our confidence in its purity should be impaired. With different degrees of ability and character in those who conduct it, they are sentinels by day, and by night, over the improving condition of men, urging on public opinion in every nation to an increasing war against all abuses standing in the way of representative and free Government. They are the first to hunt down the faithless of their own corps, and relentlessly expose such of them as are worthless, or only suspected of being so. In this country, all business, as well as that of the Government, is conducted upon liberal credit, and no other kind requires for success so much of it as the press. Yes, sir, I acquit the bank of all such charges. I wish I could do so of a departure from the correct principles of banking, especially in the last year. If it shall be continued with an eye alone to dividends, it will be no longer an engine combining great national utility with a liberal profit to the stockholders, but exclusively the latter. My opposition, therefore, shall not be founded either upon an abuse or non-user of the charter, though such an inquiry is altogether proper. It will be against the system, with its present organization. At a proper time I will explain my objections fully to the House. To its officers and directors, I have not nor shall I make any odious exception. They are from the mass of society with ourselves, must have characters to obtain their places equal to any which we carry before our constituents to get ours, and they have the same inducements to preserve their reputations and the purity of our institutions. They will, of course, from long employment and connection with the bank, become biassed in its favor, and so much so, as not to see or apprehend the hurtful results which others anticipate from an institution with such powers. Occupied and absorbed in their duties, and from being every day witnesses of the relief and assistance given by it to men engaged in commerce, they may become indifferent to that course of thought which traces out the influence it may have upon our political system, and to the unequal privileges which it enjoys. And the first is no small evil, when it is remembered that the bank has now five hundred agents, and will have a thousand, as intelligent as any men in the country in the business of life, knowing enough of the pecuniary engagements of their fellow-citizens to give them influence, distributed throughout our most populous cities, and though separated, who may act with concentrated energy to produce the same impressions in moments of strong political excitement.

> "I see men's judgments are
> A parcel of their fortunes; and things outward
> Do draw the inward quality after them."

But I feel assured that such men as it will always be the interest of the bank to employ, cannot be made the instruments of any corrupt violation of its charter. And for its fair dealing, the nature of the institution, and the multiplication of its agents, are a security. But there is no guaranty against the interference of so gigantic a moneyed influence, made up of the funds of the Government, and those of individuals, in those hot party contentions which

must occur in this nation even more frequently than they have happened. No guaranty to prevent its influence upon much of the legislation of Congress. I do not make the allusion with any intention of arraying popular feelings against the renewal of the charter. I disclaim them altogether. Upon such a question, prejudices will be too indefinite to be lasting, if any honest man could wish them to be so, or that they might have any bearing upon the decision of the question by this House or by our constituents. Besides, sir, any attempt to excite them will be a most unequal war. Those who engage in it here, will have but a short time to wage it, and the bank, abundantly able to do so, will carry on the campaign year in and year out, to counteract all false impressions. And let us not in this controversy fear to admit that the daily conveniences which it can fairly give to all classes of persons, and which are afforded by the circulation of its notes, will outweigh all opposition not founded upon high and correct principles. We read history to profit by its examples, and our own furnishes a warning upon the point strong enough to justify any allusion to what may be the political influence of the bank. Is there a gentleman in this House who will deny that for more than twelve years after the first bank charter was granted, it was not a tremendous agent in the party controversies of that period? The bank acted as a party, throwing all its weight into the scale of federalism, by excluding from its offices, and its direction everywhere, every candidate, though only suspected of having different politics. And so far was this carried upon one memorable occasion, when the nation was divided into bitter differences of opinion upon the propriety of ratifying the treaty of 1794 with England, and when the father of his country hesitated to do so, that the directors of that bank united officially in a petition to influence the deliberations of the Senate. I cite the incident without meaning to give any opinion upon the controversies of that day, or upon Mr. Jay's treaty, but to make the warning more impressive, as a recent attempt has been made by a respectable and talented convention of the opposition to the Administration, held at Baltimore, to make the renewal of the bank charter a party question. The ability of this institution to interfere in public concerns, arises from its large capital, from the collection of the revenue, by which persons who have Government dues to pay are forced to make their deposits in it, and to aid in paying them; from the use it has of the Government deposits, and from its extended circulation, making an aggregate of available means, amounting at this time to seventy-seven millions of dollars; from its power to establish branches, and as many as they please in a State, whether the locality of them be commercial or not, and from its being permitted to lend money at long dates. I do not mean the political effects from corrupt influence upon persons, but the silent, unseen, sure creation of a fourth department in our Government, stronger than the other three, wielded by the capitalists of the nation, without responsibility to the people, and which will become as much a part of the constitution, as if it had been in the ratified draught of it. I leave the subject, however, to the reflection of gentlemen.

The direct question for our determination now is, whether an inquiry shall be allowed into the management of the bank, (its advocates having become suddenly convinced that it was imprudent to oppose it,) with a limited time for investigation; and whether it shall be considered a kind of pledge or intimation to the public that the charter will be renewed at this session of Congress.

We may learn a lesson to guide us in this matter, from the cautious course of Congress when the first application was made for the renewal of the charter of 1791. A memorial for that purpose was presented to this House in 1808, three years before the time fixed for the expiration of the charter. Though urged with earnestness, and with talent fully equal to any which now advocates the immediate renewal of the present charter, the utmost that this branch of Congress would do, was to refer the memorial to a Committee of the whole House; reference equivalent to a refusal to consider it during that session. After this disposition of it here, a memorial was presented to the Senate, and there the application was thought premature, and was referred to the distinguished gentleman (Mr. Gallatin) who then presided over the Treasury Department, with instructions to make a report upon the subject at the next session of Congress. In eleven months after, and only two years before the expiration of the charter, the Secretary made a report, and urged the renewal, but with modifications, which were sagacious anticipations of the kind and extent of discontent which the organization of any bank without them would occasion. The report also stated, with positive approbation, the services the bank had rendered to the Government in loans, its utility in collecting, keeping, and transmitting the revenue; and it contained a statement of its condition, much and deservedly calculated to enlist public sentiment in its support. For it had more specie in its vaults than it had notes in circulation, with a reserved fund, arising from undivided profits, of more than five hundred thousand dollars, to meet losses which might occur. What a contrast to the condition of the present bank, as is exhibited by its monthly statements, and of its relative claims to a renewal of the charter. With only seven millions of specie, twenty-five millions of notes in circulation, sixty-six millions of discounts, and a foreign debt of sixteen hundred thousand dollars, causing not only its total inability to relieve the impending commercial embarrassments, but probably coercing it to increase them, by a reduction of loans, unless this necessity shall be obviated, by a free use of Government deposits, or by a greater

rise in the value of our exports than can be anticipated.

But Congress again refused to consider directly the proposal to renew the charter, notwithstanding the report and earnest recommendation of the Secretary, though urged to do so by much talent, character, and experience, and by all those considerations connected with that crisis in our history, which plainly indicated that the Government would need the greatest facility in raising supplies, as its obligation to maintain our rights and honor by war was becoming every day more apparent. The supporters of the bank, too, used then all those expedients and persuasions which have been recently repeated here, and urged their cause by menaces of evil, and deploring the ruin which would be occasioned by the refusal of Congress to act decisively upon the subject. Nor did Congress refuse to do so, as many suppose, in consequence of party feeling, or from any resentment against the bank for its long exclusive political complexion; nor from the preponderance of any constitutional objection to such an institution. Prominent men of the then triumphant party were advocates for the immediate renewal of the charter, and all who interposed the constitutional objection were uniformly left in lean minorities. And it was as well known then, as it was afterwards in 1816, that Mr. Madison's views of the force of precedent upon constitutional points, long acquiesced in by all the departments of the Government, would induce him to sign a bill for the renewal of the charter. No, sir. Congress put off the subject, because substantial differences of opinion existed, as they now do, concerning the powers and privileges which should be given to a bank, as to what should be its organization in connection with the Government and the States. But, above all, for a reason operating upon us with greater force than it did then, and which we cannot upon principle disregard—that the ninth Congress, not being urged to act by any positive State necessity, thought it would be wrong to do so upon a subject more properly belonging to the deliberations of the tenth. This commendable delicacy to its successors becomes more worthy of our imitation, as it gave to the people, as it will now do, if we do not act at this session upon the memorial, an opportunity to choose their representatives in reference to the opinions of candidates upon this great national question. The only safe legislation in this country is the reflection of public sentiment, after a full opportunity has been given for its expression. We have then a safe precedent to guide us as to the proper time for considering the question of a renewal of the bank charter. Another session of this Congress, an entire Congress, the twenty-third, and a part of the first session of the twenty-fourth Congress, will intervene, before the charter will expire.

The people will have two opportunities to express their opinions in regard to the bank, by the election of their representatives, before any necessity will exist for the agitation here of the question of the renewal of the charter. And the popular branch of the twenty-third and twenty-fourth Congresses will be enlarged by the addition of thirty or forty members to be made by the ratio of representation which may be fixed under the last census; in fact, being the representation of our increased population in ten years of more than three millions of persons, now in effect not represented here according to the spirit of the constitution. Does not this objection outweigh every reason which has been urged in favor of a renewal of the charter at this session of Congress? With it staring us in the face, can we act with propriety, unless forced by some great necessity connected with the general welfare of the country? It is not pretended that any such exists, and no one public reason has been given for precipitating action upon the subject. It will, indeed, be very advantageous to the stockholders in the bank to obtain a renewal of the charter at this time. And the Government, if it retains its shares, will be partakers of the enhanced value which will be given to the stock by the renewal; or the bank will be better able to purchase and to dispose of it to advantage. But it is not the small profit which the Government will receive, or any community of moneyed interest between it and individuals, however large it may be, that can buy away the impressions of the people of this country of their right fully to canvass every measure of great national moment, with the view of throwing the force of their wishes and opinions into the scale of legislation. Without any very sensitive apprehension of popular displeasure, or any desire to excite it in others, I must declare, sir, that we will deserve it, if the right of our constituents to be heard upon this subject shall be disregarded by us. A conscientious responsibility to principle will prevent me from being a party to any such usurpation of the privileges and expectations of the people.

As we are not urged by any public necessity to act at this session, let us inquire if there be any meritorious cause connected with the bank itself, which should induce us to do so. It is said to have been prudently and skilfully managed, and to be at this time in the soundest condition: to be entirely adequate to maintain all the objects for which it was made. Its condition, then, does not explain the cause of the memorial having been presented to this House so prematurely. Does any thing lower in the future, to prevent the bank from continuing its loans to the full extent of the proper claims of its customers, unless the ability to do so has been impaired by injudicious management?

Does any cause then exist at present, or which can be apprehended, to oblige the bank to accommodate its business to the ultimate decision of Congress upon the question of renewal, in such a manner as to produce great losses to the public, or even material inconven-

ience? Will a renewal of the charter now put it in the power of the bank to lessen the commercial embarrassments which are, and will be for a year to come, severely felt in our principal seaports? A fair use of its ability to discount under the charter, is the measure of relief which it can give, and this cannot be extended by renewal, without an increase of its capital, which it does not ask. Are the friends of the bank here, or elsewhere, prepared to say that its transactions of the last year have not deprived it of all power to relieve the distresses of our merchants, if they shall not in fact aggravate them, whether the charter be or be not renewed? In one word, sir, does the bank, by asking for a renewal at this time, propose to be of more service to the public than it can be without it? Will it give to the bank increased ability to be useful? No such intimation is given in its memorial; no one will venture to suggest it. The conclusion then must be, that neither the welfare of the nation, the condition of the bank, nor any anticipated increased utility, give to the memorial any claim to our consideration. Why then is it urged upon us? The time is politically favorable; the extraordinary pressure in the money market array around the bank all who have been, or hope to be, relieved by it. In moments of pain, men do not discriminate very accurately into the causes which produce it, or hundreds who have signed petitions in favor of the bank would have detected one source in part of their sufferings. Nor are we accurate judges of the means of relief for our infirmities, or hundreds who anticipate the aid of the bank would have seen, from its annual statement, that it was not in a condition to give it. But besides the time and the pressure to which I have alluded, as inducing this early application, perhaps the strongest inducements for it are the positive advantages which the stockholders will derive from an early renewal of the charter. I call the attention of gentlemen to the nature, extent, and consequences of those advantages, because they form an insuperable obstacle against any action upon the memorial at this session of Congress, and all of them may be obviated by postponement, and a little arrangement hereafter.

If the charter shall be renewed now, the bank will have a certain existence for four and twenty years, with the certainty of being perpetuated. Admitting that its dividends shall be no larger than they have been, the stock will advance to fifty per cent. above the original cost of a share, in consequence alone of the time for its duration. If it shall divide seven per cent. per annum, I am told by practical men who are ready to make the investment upon the contingency, that a purchase at fifty per cent. would be a profitable speculation. But if the bank shall divide eight per cent., which it is probable it will do, considering the credit it will enjoy from its connection with the Government, the use it will have of its funds, and the power it has over all State banks, and that a dividend of eight per cent. will not be equal to the average annual dividend of the first bank throughout the whole of its term, then the stock will rise to one hundred per cent. above the original cost, because a permanent four per cent. stock is, and always will be, worth par, and because, after the payment of our national debt, there will be no stock besides that of the bank, of such general currency in all parts of the United States, none which will be an object of such general investment, nor any so high abroad. The confidence felt in the stability of this Government by the capitalists of all nations, under such an arrangement as now exists to pay the dividends at certain points in Europe, must produce such a result. If it could occur without in any way affecting the interest of others, it would be a sufficient reason to restrain us from renewing the charter at this time. Our legislation should never be used to increase the fortunes of any class of persons, and to alter the relations which men have in a pecuniary point of view to each other. The accidents of life, and superior sagacity of some, change them often enough for the good of society, and have established an economy which legislation cannot invade without producing discord, discontent, and inequality. The objection, too, against renewing the charter at this time, will be more obvious, when we reflect that we shall legislate largely for the benefit of foreign stockholders. They now own more than eight millions of bank stock. The renewal of the charter will increase the value to twelve the moment it is made. In less than three years, certainly before the present charter will expire, it will be worth sixteen millions. Sir, let me not be misunderstood. I am not objecting to foreigners investing capital in our institutions, or invoking prejudices against the bank, because they have so large an interest in it. This is not the time to discuss that point. I am not now permitted to do so. But I do object, upon the soundest principles of policy, against any legislation of ours which does not guard against the consequence of giving a double value to the investment of foreigners.

Nor must it be forgotten that the increased value which I have said must be given to the stock of the Bank of the United States, if the charter should be renewed at this time, will be an unfair advantage in favor of the holders of it, over the owners of stock in the State banks.

The sound banking capital in State institutions, in our commercial cities, is near ninety millions of dollars. The accommodations afforded by it, relatively, against those of the Bank of the United States, are as six to one at least. Its importance, therefore, is, or ought to be, of great national consideration, and protection from injury. Why then should we, by renewing the charter of the Bank of the United States, immediately make so great a difference in the value and currency of those respective stocks? Foreigners are beginning to appreciate the stability of our State banks. They have

already made investments in many of them; the desire to do so is increasing as our system of government is better understood abroad. The confederacy is now known to the intelligent of all nations to be made up of distinct political communities, each having the responsibility of the whole for its contracts and pecuniary engagements, guarantied by the character of a people equal to any in the world, and by all that accountability which the laws of nations exact. Just then at the moment when the stockholders in our State banks are beginning to reap some of the fruits of successful management, we are called upon to give an exorbitant and sudden rise to the stock of the Bank of the United States, which will destroy all competition between them. This cannot be right.

It has occurred to me also, sir, that, if we will advert to the history of the bank, ordinary prudence will warn us not to pursue a course involving even an apparent pledge to consider the renewal of the charter at this session of Congress.

It cannot be denied that the management of it for the two first years of its existence was unfortunate for the country and the stockholders. Three more elapsed before it sufficiently recovered from its losses to be extensively useful. Our favorable experience of its utility must be collected from the succeeding nine years; for the last and the tenth, time will determine, and that not very distinctly, if it shall be taken into the account in favor of the bank. Four years of its charter are unexpired, and yet, with such results, and with a fifth of its existence remaining, Congress is asked to deprive itself of all the advantages of future experience growing out of its transactions. Sir, Congress should have the longest possible time to form an opinion of the utility of the bank, and to know how far its entire management shall entitle it to a renewal of life; the longest time to ascertain its bearing upon other interests, and to mature those modifications which the changed condition of our country, arising from its entire freedom from debt, will make proper and necessary, whether this bank shall be rechartered, or another be made to take its place, with all and more than its ability to be useful, and without its powers to do harm.

The modifications of the charter which have been already proposed, form a curious and important subject of inquiry, and interpose strong objections against any renewal before they have been fully considered. It would not be in order to argue them at this time, and I shall not do so. But it is allowable to advert to them in detail, that we may have a full understanding of the bearing which they have upon the main question of renewal. Some persons, whose experience in Government and banking gives to their opinions great weight, declare that it is unwise for the Government to hold any stock in the bank. And the Government did not own any shares in the first bank. Others object to foreigners being permitted to hold any stock in a national bank. It is thought we have capital enough at home for the purpose, and that the advantages to be derived from such investments should be secured to our own citizens, if for no other end than to prevent so much of the productive industry of the nation from being carried abroad annually, to pay dividends to foreign stockholders. Mr. Gallatin correctly says, such an investment by foreigners will operate as a foreign loan, taking from the country the annual interest upon it. And to this inconvenience he yielded so far as to suggest a modification of the first bank when it applied for a renewal of its charter, providing for the repayment of its stock held by foreigners by a new subscription to the same amount, in favor of citizens. Again, it is strongly urged by many that the States of this Union could be advantageously interested in a large portion of the capital of a bank, notwithstanding the number of institutions which they have chartered; that such an arrangement might be made without in any way interfering with the fair advantages of our State banks. The abstract proposition has the authority of Mr. Gallatin to sustain it. When it was proposed to increase the capital of the first bank from ten to thirty millions, he proposed that fifteen millions should be subscribed by the States, and suggested that their subscriptions should be paid in ten annual instalments. And such was his regard to the feeling which the States had shown upon this subject, that he proposed no branch of the bank should be established in any of them, unless applied for by an act of a State Legislature. There are connected with the suggestions of the States being interested in a bank, several others of much importance. For instance, what portion in the direction of a national bank should be given to the States? At what rate of interest, and to what amount loans should be made to the States, and what tax they should be allowed to levy upon the capital which may be assigned to the branches established in them? These, and other questions of the same kind, we shall have to discuss and determine when we consider the memorial for the renewal of the charter. For one, I am disposed to do so more deliberately than can be done at this session of Congress; and for a reason apart from their intrinsic importance, which is, that the National Government having assumed irrevocably a concurrent power with the States to establish banks, it is proper that great concessions should be made to the interests of the latter, that their power, in this regard, may not be entirely absorbed in that which has been assumed. Other modifications, too, of great interest, have been suggested, and which we have not time enough at this session of Congress to settle. For instance, to what amount, and for what objects, and at what rate of interest, the Government shall borrow from the bank; and the rate of interest which the bank shall pay to the Government for its current

deposits. I perceive in the bill reported for a renewal of the charter, that provision is made for the payment of interest upon deposits, but the rate is left in blank. I will not argue now what it should be, but I may say, without making any trespass upon the privileges of debate on the motion before us, that no question of national interest connected with the bank is so important, or more difficult to settle —requiring more knowledge in detail of what the business of the bank has been upon deposits. As a question of taxation, or to lessen taxes, it is of incalculable importance, from the revenue which such a provision may be made to produce. Sir, this matter is not well understood by us, because it is a novel thing in this country for persons to receive interest upon deposits in banks, which they may draw for when they please. But it is becoming known, and will be practised extensively in a few years. Banks are now offering to receive and pay an interest of three per cent. upon current deposits. Until the great change shall take place of reducing our revenue from imposts to the wants of the Government, which all agree should be done; until it is known what our revenue hereafter is to be, the rate of interest to be paid to the Government upon deposits cannot be correctly fixed, as it must be determined, in great part, by the amounts which the bank shall from time to time have in use.

It is much questioned, also, if the privilege to deal in foreign exchange should be continued to the bank. It belongs to the community upon principle, and the monopoly which the bank has of it at this time is made profitable to it, at the expense of all whose business accumulates funds abroad, and to all whose debts abroad require payment there, when they have not produce to ship. Now the price of exchange is no longer regulated by the operations of trade, as it should be, but by the power of the bank to make it rise or fall at its pleasure. The bank, with its unrivalled means and credit, needs only to expand or contract its loans, and foreign exchange must rise or fall. It then buys to sell, realizing all the differences caused by its own contrivance. You have given the privilege to it, to apply this power when it pleases to produce such effects, and it may be no reproach to its directors to use it, as it is all in the way of trade. But the inconveniences and losses caused to others from the bank having the privilege, at least demand from us an inquiry into this point, that we may know if it be of national benefit, or exclusively of bank profit. It is an extensive subject, and will one day or other be fully discussed here, though it cannot now be done.

In these brief notices of the modifications which have been suggested, it is probable some that are important have escaped me; but, sir, there are two which I confidently rely upon the good sense of this House to make without hesitation. I mean that which will compel the bank to receive, in payment of debts due to itself, its own notes wherever made payable, and that of restricting it from putting into circulation notes of less than twenty dollars. The first it may do without loss, though it may lessen profits. But it should be remembered that the profits accruing to the bank by its not receiving its own notes in payment of debts due to itself, are indirect, never contemplated when the privilege was given to it to issue bills payable at its branches, and only to be made by the bank cashing its own notes at a discount, or receiving them in payment at the rate of the difference of exchange between the places where a debtor of the bank wishes to pay them, and where the bills which he has may be payable, or the debtor is forced to incur the expense of a discount with the bank to take up its demand against him, though he has its bills in hand, or a sale must be made of them to brokers at a loss for such notes as the bank will receive in payment. In either event, it is increasing the sum the debtor has to pay to his creditor. The contrary practice would cause no loss, though it might prevent the bank from making a profit, in my opinion, altogether at variance with the liberal spirit in which a national bank should deal with the public.

In relation to the restriction of the issue of notes of small denominations, it is strongly recommended by all those reasons which urge us to make efforts to increase the metallic currency of this country. Until this be done, the laboring classes of our people will never be put upon an equality in regard to the value of the wages they receive for their services, with that value which is paid to all other persons carrying on any kind of business. The five dollar notes issued by the bank are no doubt of great public convenience in the present state of our currency; but they are principally so to travellers. They are of no convenience to persons who are stationary; for State bank notes of similar amounts, where they are put out, answer all their purposes. The first are not to be found in general circulation. The State banks collect and hold them as specie, because they are payable everywhere, and they are an article of traffic in our country towns. The use of them, then, to the public consists in their convenience to travellers. Now, this may be obviated by a substitution of gold coin, which we have the ability to make to the full amount of all such notes in circulation. It is only necessary for us to alter our present false statutory relative value of gold and silver, to a correct standard, by which the inducement to export the gold now coined at our mint will no longer exist. It is probable that this will be done, as the propriety of it is becoming every day more obvious. But it cannot be done at this session of Congress, and yet, being intended, its connection with the currency is so important, that it forms a strong reason for us to abstain from making any inquiry into the affairs of the bank, which shall be considered preparatory to the renewal of the charter at this session. But a more im-

portant modification of the charter, and one which we are not prepared to determine, is that which proposes to limit the dividend to stockholders to a certain interest, and to determine what shall be the disposition of the excess. It will be supported by great authority, and comes recommended by practical men in money affairs, some of whom are in favor of rechartering the bank. Whether it shall be done as proposed in the memorial upon our table from Boston, by a payment of one per cent. upon the capital to the Government, and by permitting the States to tax so much of the capital as may be assigned to the branches one per cent., or by limiting the dividends to five per cent. and paying the surplus into the national Treasury, are questions which we have no right to determine, until the States shall have had an opportunity to express themselves upon the point, and after it has been thoroughly canvassed by the public. Under this arrangement, the bank would have no temptation to use extraordinary means to extend its business, of which there has been, and upon good grounds, much complaint. The stock would in ordinary times be worth a premium of ten per cent., and those who hold it would reap a certain interest of five; advantages enough, and beyond which no prudent legislation will place permanently the capitalists in any nation. This and the other sugestions for a modification of the charter of the bank, which I have mentioned, and several others which I abstain from bringing to the notice of the House, show how important a task has been put upon us by the introduction of the memorial, and how vain it will be to restrict the committee which may be appointed to inquire into the proceedings of the bank to any time, with the view of passing upon the main question at this session.

A more interesting reason, however, remains to be given for the postponement of this subject to a distant date. We are now upon the eve of a change in our condition, which makes this nation the envy and admiration of all other nations. In one year, and three before the charter of the bank will expire, the public debt will be paid. To effect this triumph of our system of Government, and jubilee for our country, it is proposed to dissolve our partnership with the bank by the sale of the Government shares, and this can be done advantageously. Who can foresee the effects which will be produced upon our policy, general condition, and trade, by this nation's entire freedom from debt? It requires, at once, and we are at this time engaged in making arrangements for the reduction of more than half of our revenue from imposts—our only kind of taxation. In whatever way it may be done, changes in the direction of our commerce, quantities and kinds of produce imported and sent abroad, must follow. Capital will seek other or more extended channels for speculation and investment, and the principles regulating consumption will probably act with an energy never experienced in any commercial nation, and of which we cannot have an idea, until the effects shall be seen and felt. Its influence upon agriculture, upon the staples of the South and West, and upon the manufactures of the North and East, must all be now left to conjecture. Plans for public improvement and the enterprises of private companies will extend the field and requirements for labor, perhaps entirely altering its relations of value and employment to the existing state of things. What sagacity can foretell the changes it may occasion in our general policy, and upon that particularly connected with the disposition of our vast national territory? Upon the sale of that portion of it lying within the limits of the States; upon the application of the revenue to be derived from the sales of our land, now more than three millions annually, and increasing in defiance of all certain calculation? Already we have a proposition from the Secretary of the Treasury to sell to the States the national domain situated in them. It is countenanced extensively, as the best manner to rid ourselves of a subject of great national disquietude. The States desire to possess the lands. They are jealous of that control which we must have over the lands while we continue to own them, but which they think interferes with their sovereignty, actual interests, and prospective welfare. They have some reason for discontent, as the payment of the price of the lands into the national Treasury exhausts their means. This evil is augmenting, and may ere long cause feelings which this Government is not strong enough to control, but by the exercise of powers which may make it too strong. The Secretary's proposal is and will become popular in every part of the country. Something of the kind will be adopted in a year or two, and the organization of a national bank should and can be made to have some reference to this point, by which the States may, more conveniently, and without the pressure of extraordinary taxation, make the purchase. The twenty-six millions of discounts enjoyed in the West, at this time, by the indulgence of the bank, and its five millions of currency in bank checks, are worthless accommodations, compared with the results which a due regard to the subject may produce to the Western States. It will not be as the bank loans now are, money accumulating upon the use of credit, with all the contingencies attending business done in that manner—the mere increase of capital; but a national bank, properly organized, may be made to those States the means of independence, of sovereignty over all the lands in their borders, of the prevention of oppressive taxation, of an increase of population and power.

WEDNESDAY, March 14.

Bank of the United States—Inquiry into its Conduct.

The House resumed the consideration of Mr.

CLAYTON'S resolution, with the amendment offered thereto.

Mr. HUBBARD said there had been a discussion of about two weeks upon the original resolution. Now the gentleman from Georgia, (Mr. WAYNE,) from Rhode Island, (Mr. BURGES,) and from Massachusetts, (Mr. ADAMS,) had proposed amendments, all of which would probably lead to further discussion. He would submit to the House whether other business of importance did not require its action. He moved the previous question.

A call of the House was moved, and carried; and after the call of the House had proceeded,

Mr. BOON moved to suspend the call.

Mr. MCDUFFIE said the question was decisive for the bank, and all its consequences. He hoped there would be a full House when it was taken. The subject for the last week or two had been discussed entirely upon one side. Though he had felt called on to answer several arguments advanced on the merits of the bank that had been urged, he had abstained altogether from entering into the debate. He wanted a report on the subject; he did not care how extensive the investigation was, if it left time to act on the matter here; he never could vote for the inquiry without a limitation of time as contemplated by the amendment of the gentleman from Massachusetts, (Mr. ADAMS.)

Mr. WAYNE said if the gentleman alluded to him, he felt bound to say that he had not discussed the merits of the bank at all; he had only endeavored to show the necessity of an inquiry into its affairs.

Mr. BOON withdrew his motion to suspend the call.

The absentees were called over, and excuses made; eight members were absent, for whom no excuses were offered.

Mr. LYON moved to suspend the call.

Mr. WICKLIFFE was as anxious to put an end to the discussion as the gentleman from New Hampshire, (Mr. HUBBARD,) but he wished the question to be taken in the usual manner. He would vote to suspend the call if the previous question was withdrawn, otherwise he should vote against it.

Mr. WILLIAMS wished for a full expression of the sentiments of the House on the question. A precipitate decision, in the absence of members, he thought, was improper.

Mr. JOHNSON, of Kentucky, said he believed most of the absentees who were able to be present were at the door waiting for admittance; if the call was suspended, and the door opened, the House would be as full as it had been.

Mr. HUBBARD, in reply to the appeal made to him to withdraw the previous question, said he thought quite time enough had been spent in the debate. He could not consent to open the door to another three weeks' debate.

Mr. ADAMS said he doubted whether the gentleman would find his object (stopping the debate) answered by the course taken. The printed resolution provided that the committee be chosen by ballot.

The SPEAKER said he was informed by the Clerk that it was so printed by the mistake of the printer.

The Clerk read the original resolution offered by Mr. CLAYTON.

Mr. ADAMS. Suppose the resolution is adopted in that shape, the question arises as to the number of the committee, which may be debated for six weeks. The gentleman from Georgia, (Mr. WAYNE,) who had addressed the House greatly to his satisfaction, said he did not debate the merits of the bank. Sir, if a question is seriously made as to the number of the committee, the merits of every thing will be open to debate. The gentleman from New Hampshire (Mr. HUBBARD) will not accomplish the end in view by moving the previous question, when other points on the resolution are open to debate. He (Mr. A.) had given notice of the amendment he proposed in anticipation of this motion. The reason of his amendment was, that the original resolution, in his opinion, transcended the powers of the House.

The SPEAKER said the question before the House was the suspension of the call; the previous question was not a subject of debate.

Mr. ADAMS said, showing the original resolution to be an improper one afforded a very good reason against suspending the call. The resolution was improper, because, when an inquisitorial proceeding is instituted, care should be taken not to transcend the powers of the House.

The SPEAKER repeated it was not in order to debate the resolution on a motion to suspend the call of the House.

Mr. ADAMS said he was not debating the resolution; he was only stating the grounds why the call should not be suspended. In settling a question of so much national importance, which involved not only the rights of this corporation, but the power of the House itself, there should be a full attendance of the members. The amendment he should propose was founded on the idea that the original resolution transcended the power of the House. He did not wish any member placed in a humiliating situation before the House, but he hoped the call would not be suspended.

Mr. ROOT said he hoped the call would be suspended, and the motion for the previous question be seconded, that the debate before the House might proceed. He had been attacked by two of his colleagues in a manner that required him to repel or explain, or both; which he was anxious to do. He supposed it would not be proper for him to go into the matter at this time.

The SPEAKER said it would not.

Mr. ROOT could not vote in a manner that would deny himself that privilege.

Mr. EVERETT would remark that the previous question was a motion odious at all times; its only proper interposition is when the friends of a measure think the opponents have pro-

tracted the debate beyond reasonable limits. It was apparent this was not the case here. The friends of the bank had hardly entered into the debate. He hoped the gentleman from New Hampshire (Mr. HUBBARD) would consent to withdraw it.

Mr. HUBBARD said it was due himself to state, that before the gentleman from Georgia (Mr. WAYNE) addressed the House, he had attempted to get the floor for the purpose of moving the previous question. He had determined to embrace the first opportunity for that purpose. The important business which pressed itself on the attention of the House forbade him to withdraw it, especially after the annunciation of the gentleman from New York, (Mr. ROOT.)

Mr. JENIFER said if the previous question was sustained, the chairman of the Committee of Ways and Means would have no opportunity of vindicating himself and other persons implicated. He could not vote to deprive them of that right.

Mr. CRAIG rose to inquire whether this general debate was in order.

The SPEAKER said it was in order to discuss the propriety of suspending the call, but not the previous question.

Mr. LYON withdrew the motion to suspend the call, in order, he said, to put an end to the debate. It was immediately renewed by another member.

Mr. BEARDSLEY said the question before the House was the suspension of the call, which is opposed, because the previous question, which follows, will prevent the gentleman from South Carolina (Mr. MCDUFFIE) from addressing the House. That gentleman certainly does not wish to address the House against the original resolution. When it was proposed to send it to the Committee of Ways and Means, that gentleman stated that the inquiry should be gone into fully and completely. He presumed he did not wish now to change his ground. The object of the amendment of the gentleman from Massachusetts was principally to append a limitation of time to this resolution. He would inquire whether that limitation could not be equally well effected by instructions, independent of the resolution. He should not support the previous question from any wish to prevent the discussion proposed by his colleague, (Mr. ROOT,) but the time had arrived when other objects required the attention of the House.

Mr. BOON said, as the question was about to be taken on suspending the call, he would state that, of the eight members who were absent, without excuse, two were sick in bed, and five or six were in attendance at the door.

The question on suspending the call was carried.

The call for the previous question was then tried, and was not seconded by a majority of the House; the yeas being 80, the nays 100.

Mr. ADAMS said he would now move his amendment to the amendment of the gentleman, (Mr. WAYNE.)

Mr. SUTHERLAND wished to meet the amendments separately.

Mr. ADAMS then withdrew his motion.

Mr. CLAY moved a call of the House; which was lost.

The question was taken on Mr. WAYNE's amendment, and lost—yeas 26, nays 164.

Mr. ADAMS then moved his amendment to the original resolution, as follows:

To strike out after the word "appointed" the remainder of the resolution, and to insert "to inspect the books, and to examine the proceedings of the Bank of the United States, to report thereon, and to report whether the provisions of its charter have been violated or not; that the said committee have leave to meet in the city of Philadelphia, and shall make their final report thereon, on or before the fourteenth day of April next; that they have power to send for persons and papers, and to employ the requisite clerks; the expenses of which shall be audited and allowed by the Committee of Accounts, and paid out of the contingent fund of this House."

Mr ADAMS's amendment was adopted by the following vote:

YEAS.—Messrs. Adams, Adair, C. Allan, Allison, Appleton, Armstrong, Arnold, Ashley, Babcock, Banks, N. Barber, John S. Barbour, Barringer, Barstow, I. C. Bates, Branch, Briggs, Bullard, Burd, Cahoon, Choate, Collier, Lewis Condict, Silas Condit, Eleutheros Cooke, Bates Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, John Davis, Dearborn, Denny, Dewart, Dickson, Doddridge, Drayton, Duncan, G. Evans, J. Evans, E. Everett, H. Everett, Ford, Gilmore, Grennell, Heister, Hodges, Horn, Howard, Hughes, Hunt, Huntington, Ihrie, Irvin, Jenifer, Kendall, Henry King, Letcher, Marshall, Maxwell, R. McCoy, McDuffie, McKay, McKennan, Mercer, Milligan, Muhlenberg, Newton, Pearce, Pendleton, Pitcher, Potts, J. Reed, Root, Russell, Wm. B. Shepard, A. H. Shepperd, Slade, Smith, Southard, Spence, Stanberry, Stewart, Storrs, Sutherland, Taylor, P. Thomas, Tompkins, Tracy, Vance, Verplanck, Vinton, Washington, Watmough, Wilkin, E. Whittlesey, F. Whittlesey, E. D. White, Wickliffe, Wilde, Williams, Young—106.

NAYS.—Messrs. Alexander, R. Allen, Anderson, Angel, Barnwell, James Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Boon, Bouck, Bouldin, J. Brodhead, J. C. Brodhead, Cambreleng, Carr, Carson, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Conner, Davenport, Dayan, Doubleday, Felder, Fitzgerald, Foster, Gaither, Gordon, Griffin, T. H. Hall, W. Hall, Hammons, Harper, Hawes, Hawkins, Hoffman, Hogan, Holland, Hubbard, Isacks, Jarvis, Jewett, R. M. Johnson, Cave Johnson, C. C. Johnston, Kavanagh, Kennon, A. King, J. King, Lamar, Lansing, Leavitt, Lecompte, Lent, Lewis, Lyon, Mann, Mardis, Mason, McCarty, W. McCoy, McIntire, T. R. Mitchell, Newnan, Nuckolls, Patton, Pierson, Polk, E. C. Reed, Rencher, Roane, Soule, Speight, Standifer, Stephens, F. Thomas, W. Thompson, J. Thomson, Ward, Wardwell, Wayne, Weeks, Wheeler, C. P. White, Worthington—92.

Mr. ADAMS moved the committee consist of seven—adopted.

The House then (at eight o'clock) adjourned.

MONDAY, March 19.

Bishop Flaget—Remission of Duties.

The bill for the relief of Benedict Joseph Flaget was read a third time.

[The bill authorized the remission of the duties on certain paintings and church furniture, presented by the king of the French to the Catholic Bishop of Bairdstown, Kentucky.]

Mr. HOGAN, of New York, regretted that he felt it his duty to oppose the passage of the bill, although it was for the benefit of the inhabitants of a State where he had many personal friends. What was the object of the bill? Was it intended to secure any public benefit? Did it address itself either to the justice, the equity, or the policy of the House? Did our constitution recognize any connection between church and State? If the bill had been in a general form, extending the like benefit to all churches similarly situated, it would have been better entitled to consideration; but what was its object? To remit the duties on certain paintings presented to a particular church. It was but two days since that the House was very near refusing its assent to remit the duty on so useful an article as railroad iron, though that duty was required neither for protection nor revenue. This bill proposed to promote no national interest—it addressed itself to the mere liberality of the House, and asked Congress to pay back from the Treasury a sum of money which had legitimately come into it. The table of the House already groaned with the loads of petitions on subjects pretending some lawful claim to its regard; but if the House proceeded to ratify mere applications to its liberality, the table would not only groan, but would be soon broken down with the mass of such applications.

Mr. WICKLIFFE regretted the gentleman from New York (Mr. HOGAN) had not selected some other of the numerous bills which had been, and were now upon the calendar, to press the consideration of those general principles to which he had invited the attention of the House. The duty of defending the principle involved in this bill had, however, by the opposition of the gentleman, been devolved upon him, and he would detain the House but a very short time in its discharge. About four years since he had presented the application of the worthy individual whom the bill proposed to relieve. That application had always met with the favor of the Committee of Ways and Means, and the bill had two or three times passed this House without objection, but was never acted upon in the Senate, for want of time. The question was again before us, approved by the united voice of the committee who reported the bill. Mr. Speaker, the House will pardon me, said Mr. W., while I trespass long enough upon their time to do justice to a worthy man, Bishop Flaget, for whose relief this bill is designed; he is my constituent and friend. He is a man who has devoted a life of near seventy years in dispensing acts of benevolence and the christian charities. He was once a resident of this District, having under his charge the valuable college of Georgetown, where his labors in the cause of science, morality, and religion, will long be remembered by all who knew him.

His destiny, or the orders of the church to which he belongs, placed him at the head of the Catholic church in Bairdstown, where, in the exercise of the duties of bishop and philanthropist in his diocese, he has endeared himself to the community whose society he adorns. This is not all, sir. With his own means, aided by the liberal contribution of the members of his own church, and of individuals belonging to other denominations, he has built up a college, which is both the pride and ornament of the little village in which it is situated. In this college are taught all those branches of useful knowledge and of science, which qualify man for the duties of life and its rational enjoyments. This college, without the aid of governmental endowment, brought into existence and sustained by individual enterprise, will lose nothing in comparison with any college in the Union. Sir, I believe it the best west of the mountains. In it are annually instructed about two hundred of the youth of our country upon terms moderate. And we have in its discipline a perfect guaranty for the preservation of the morals of our young men. Its portals are opened to all denominations. Religious bigotry does not extend its unhallowed influences over the consciences of the professors or their pupils. The benevolence of its founder and its conductors is felt in all ranks of society. The orphan and the destitute find ready access to the benefits of this institution; and when there is an inability to pay the moderate charges of board and instruction, none are made. I will say nothing, sir, of the immense amount of money expended on the buildings of this college.

Connected with this institution is the cathedral and church, the residence of Bishop Flaget. The expenditures incident to such an establishment as the two I have named, have been more than equal to the private means and contributions devoted to the purposes of the institution, and its founder has felt, and still feels, the consequent embarrassments. These embarrassments have been in some measure relieved by considerable donations of church furniture and college apparatus, from persons in Italy and France. The duties upon such articles have been remitted heretofore by the liberality of Congress. The articles upon which duties have been paid, and which the bill contemplates to refund, consist of paintings and other articles of church furniture, presented some years since by the then Duke of Orleans, now King of the French, to the Bishop of Bairdstown. He could not refuse to accept the offering; by ac-

cepting, however, he had to pay the duties, which your revenue laws impose upon articles imported from abroad. These articles would not have been purchased and imported. They have not been brought into the country as merchandise, do not enter into the consumption of the country, and therefore do not, I humbly conceive, fall within the principle or spirit of your revenue system. They are specimens of art and taste designed as ornaments to a house of public worship.

I trust, Mr. Speaker, that the circumstance that this application is in behalf of a Catholic bishop will not prejudice the mind of any member of this House. I am sure it does not the honorable member from New York. I would extend this relief to any church or public institution, and to none sooner than the Catholic. I live among them. They are, like other denominations, honest in their religious opinions, content to worship in the mode their education and habits taught them to believe to be right, and which their judgments approve. They are honest, industrious, and patriotic citizens, devoted to the free institutions of the country. I mean not to say they are more so than other denominations; certainly they are not less patriotic and liberal in their opinions and practices than others of my constituents. I hope the gentleman from New York will withdraw his opposition to this bill; the amount involved is small, but it is to the very worthy man, Bishop Flaget, at this time of much consequence. At least, I shall look with confidence for the judgment of this House in favor of the passage of the bill.

Mr. VERPLANCK said that this bill had been reported by the Committee of Ways and Means. He should not attempt to add any thing to what had been so well said by the gentleman from Kentucky, as to the character and claims of Bishop Flaget, but would merely state the general principle which had governed the committee in reporting the bill—a principle which had been settled after full discussion, on more than one occasion, by yeas and nays, in that House. The duties had not been remitted on all importations made for the use of churches or liberal institutions, but the principle adopted by the Government was, that it ought not to tax the donations of learned or pious men abroad to institutions of religion or literature in this country. That principle had first been settled in reference to books and apparatus presented to one of our colleges. There were ten or twelve laws of this character upon our statute book, and there were four or five bills of a similar description at present reported to this House and the other. The principle appeared to him a sound one; we ought not to tax these fruits of philanthropy and proofs of goodwill. Enough, and more than enough, has been done to check this species of friendly intercourse, and all those acts of kindness between different nations which were calculated to cause men to remember that they all formed parts of one great family. A common religion, however, and a common interest in the cultivation of science, bound together large masses of men on both sides of the Atlantic, and it was not gracious to tax the donations which our brethren abroad might be disposed to make to the institutions of the new world.

Mr. HOGAN replied that the explanation which had been given was so perfectly satisfactory to him, that he would, with pleasure, withdraw his objections to the bill.

The bill was passed without further opposition.

MONDAY, April 2.

The English Memorial—Colonization and Slavery.

Mr. CHILTON ALLAN persented a memorial, which, he stated, was signed by a very large number of the citizens of Kentucky of all parties, praying Congress to make an appropriation for the purpose of colonizing the free people of color.

A similar memorial was presented by Mr. TOMPKINS, of Kentucky. Both memorials were referred.

Mr. MERCER presented a memorial from sundry subjects of Great Britain, residing in England, praying Congress to aid the American Colonization Society, as an effectual means of ultimately suppressing the African Slave trade, &c.

Mr. M. moved that the memorial be referred to the Select Committee appointed on the colonization subject; and, without being read, it was accordingly ordered to be so referred.

Mr. POLK soon after, having inquired into the nature and source of the memorial, moved a reconsideration of the question on its reference. At the time of its introduction, he said, he had very indistinctly heard the nature of it stated, or he should have objected to it then; he had since, however, learned, on inquiry, that it was a memorial signed by British subjects resident in Great Britain, praying for the abolition of slavery, and recommending an appropriation by the United States Congress to the Colonization Society, for the better attainment of the object of that society in the colonization of colored people on the coast of Africa, or elsewhere. Mr. P. proceeded to comment on the singular character of the petition, coming, as it did, from foreigners resident in a foreign country, and relating to matters with which those who signed it could not possibly have any concern. He did not attribute any impropriety of conduct to the gentleman who presented it to the House—the well-known character of the member from Virginia shielded him from the possibility of any imputation of improper motives in submitting this memorial; he had no doubt that gentleman had acted with an honest conviction of its propriety and utility, but he (Mr. P.) must be permitted to say that his views of the subject

differed materially from those entertained by him. He considered that foreigners had nothing whatever to do in respect to any measures which might be adopted in reference to this great question: their interference in it in the slightest degree was uncalled for and impertinent. The subject itself was one of the greatest difficulty and delicacy—the agitation of that question, even by those who were most deeply interested in its adjustment, was a matter which required the utmost caution: the House were scrupulous of acting on it, even upon the memorials of American citizens, presented then by their own representatives; how much more deliberately ought they then to consider it upon this application of foreigners? When the memorial was presented by the gentleman from Virginia, he (Mr. P.) repeated that the customary summary of its contents and purport was so indistinctly made as not to be heard by him. He should, therefore, move a reconsideration of the reference given to it.

Mr. MERCER had distinctly stated at the time he presented this memorial, that it came from British subjects resident in England. It was known to many gentlemen who heard him, that the Colonization Society had an agent abroad engaged in soliciting pecuniary aid towards its resources. The memorial was respectful in its tenor, nor was it justly chargeable with an impertinent interference in our affairs. It did not pretend to suggest any measures which ought to be pursued; it merely petitioned the Government to aid in the general design of the abolition of slavery; and, as a means of doing so, that it would countenance the designs of the Colonization Society. The memorialists were members of that society. The doctrine of the gentleman from Tennessee (Mr. POLK) was to him perfectly novel. Was it to be maintained, that, because the constitution secured to American citizens the right of petitioning that House, it therefore debarred all foreigners from doing so? Had not memorials been frequently presented by foreigners, and respectfully received? One of the most zealous reports he had ever read, was that made in the Senate on the memorial of a Mr. Sarchet. The memorial had been presented to this House through the Speaker, but Mr. M. did not approve of its tenor, because it was in the nature of an appeal from one branch of this Government to another. But he would ask the gentleman from Tennessee, if a foreigner had received gross injustice in a case not reached by the courts, whether he was to be prohibited from petitioning that House, and, if he might do so when residing in this country, would the circumstance of his residing abroad make any difference? He considered the presenting of a memorial to this Government an act of the highest respect which a foreigner could pay to it. The slave trade had been pronounced piracy: the British Government had so declared it, at our instance: and surely all foreigners, and everybody else, had an interest in the putting down of piracy. There was in the memorial a reference to the subject of slavery; but no other reference to it, than such as had been contained in every memorial from the Colonization Society. The memorialists did not pretend to discuss the morality of slavery, or the propriety of its abolition by the laws of the United States; they merely expressed, in respectful language, their belief that the plan of colonization was calculated to effect the eventual destruction of slavery; nor could imagination devise any other mode of accomplishing an object so desirable. Mr. M. had not sought to conceal the nature of the memorial. There was nothing in it which needed concealment. He had not pretended that it was from American citizens, but had distinctly announced that it came from British subjects. But that all doubt might be removed respecting its object, or its language, he desired that the memorial should be read at the Clerk's table. If it should then appear that the paper contained any thing improper, Mr. M. was willing that it should be laid on the table, or withdrawn from the House. His object in offering it had been to do good. If the memorial was likely to do evil, he was willing to withdraw it.

Mr. DRAYTON stated his reasons more at length why a paper like this should not be read in the House. He was as strongly opposed to the slave trade as any philanthropist who had ever poured out orisons for the destruction of all engaged in it, in Europe, Africa, or America. He thought no punishment that could be devised was too great to be inflicted on the man who had endeavored to purchase pleasure through the instrumentality of that hellish traffic. In all the maledictions which had been heaped upon the trade, he most heartily concurred. But when he reflected on the situation of a large portion of this Union, where slavery had become an inherent part of the system of things, where it could be no more eradicated, by any efforts of legislation, than the rays of light could be separated from the sun, or than the swamps of the South could be converted into the forests and prairies of the West, he put it to gentlemen to say whether it was proper to introduce and agitate such a subject in that House. The discussion of it never failed to excite much feeling, and often led to harsh and angry debate. The subject was environed with difficulties, and Congress had repeatedly disclaimed all right to touch it. He hoped, therefore, the memorial would be withdrawn.

Mr. LETCHER said it was to be regretted that a subject of that sort should have been introduced into the House. He meant no disrespect towards the gentleman from Virginia, when he said it was his own opinion that the paper should not have been brought into the House. The gentleman, perceiving the effect it produced, had expressed a desire to take it back; he considered that desire as honorable to the gentleman, and thought that it ought to be complied with. Mr. L. had no objections to hear any memorial addressed to the House;

but it was not the ordinary course to have memorials read; and this one was on a delicate subject, and had been introduced without consideration. From what quarter had it come? From the inhabitants of a foreign country, wholly unconnected with this Government; and was that House about to take jurisdiction of it? He thought not; and he believed that every gentleman who reflected coolly on the subject would agree with him that the desire of the gentleman from Virginia ought to be granted. None would go further than he in giving a just encouragement and support to the designs of the American Colonization Society; but a paper like this, instead of being calculated to promote those designs, operated in a manner directly the reverse, and tended to excite the strongest prejudice against them. The memorial could be productive of no good feeling, and he hoped it would be withdrawn.

Mr. INGERSOLL should vote against the reading of this paper, because, as matters now stood, the House was not called to act upon it. The gentleman who had introduced this petition wished to withdraw it, and courtesy required that the same indulgence should be extended to that gentleman which was shown to all others making a like request. The subject was not, in reality, before the House for its action; and why should the paper be read? He admitted to the gentleman from Rhode Island, that foreigners ought to be permitted to come to the House by petition, whenever they desired, on their own behalf, privileges which the House alone could grant. But it was manifestly most improper that they should attempt, by memorial, to interfere with the policy of this country, domestic or foreign. The memorial contained a suggestion as to the best mode of disposing of our surplus revenue. What would be thought in the British Parliament, if an American petition should be introduced there in behalf of the starving, potatoe-fed population of Ireland? or suggesting considerations in favor of the reform bill?

Mr. DICKSON said he was asked to vote upon the question of reading, with a direct reference to a subsequent motion to withdraw the memorial. He was not prepared to act on such a motion without first hearing the memorial read. He could not act in the dark, nor vote in reference to a subject that he knew nothing about. He trusted that no representative on that floor would think of voting on any question, until he had some knowledge of the facts involved in it. To do so, would be highly undignified in the representative of a free and intelligent people, and, in his own case, he would say, highly improper.

If, as had been said, the paper contained arguments unfit to be addressed by foreigners to that House—if it appealed to this Government proposing any action with a view to the abolition of slavery, whatever might be his opinion on the general subject, he should cheerfully consent to its being withdrawn, as intermeddling with a question which belonged exclusively to ourselves. Other gentlemen, however, insisted that the paper contained nothing improper, and that the impertinence charged was a mere matter of inference. Between those opposite representations, could he be expected to act without knowing what the paper did contain? He conceived not, and, therefore, he should vote for the reading.

Mr. PATTON, of Virginia, said that it was much to be regretted that all subjects which came before that House could not be discussed without producing excitement; but so long as deliberative bodies were composed of men, and so long as all men were not philosophers, there were some topics which always must and would produce excitement, and unhappily it was too often the case that the excitement, connected with the subjects themselves, was aggravated by exasperating and even insulting language employed by those who were engaged in the discussion. For himself, he had been willing that the present subject should pass silently, quietly, and secretly from the House, as it had entered it. He was glad, very glad, to witness the sentiment expressed in all parts of the House that it was improper such a paper should have been introduced there. He was glad that the sentiment seemed to be so universal, that the gentleman from Virginia (Mr. MERCER) had, in this matter, fallen into an indiscretion which should be remedied by letting the House get rid of the paper in the shortest mode practicable, so as in some degree to atone for the original error of its introduction. But it seemed that some gentlemen were not disposed to permit this. They insisted on hearing the memorial read. Why? To what end? A rule of the House required that a member, when introducing a petition or memorial, should succinctly state to the House its general character, and the object prayed for. In the present case, this rule had been complied with, but he did not believe that the statement of his colleague had been heard by ten members in the House.

The general character of the petition had, however, since been stated in the discussion, and Mr. P. inquired whether there was one gentleman on that floor who would say that such a paper, upon such a subject, coming from such a source, was a proper object for the action of that House. Why, then, should it be read? Would not gentlemen all have rejected it, had they known its features? He trusted in God there were not ten men within those walls who would have consented to receive it. Why, then, should it be read at the Clerk's table? Mr. P. said he should not have risen but for a sentiment which had fallen from at least one gentleman, that the opposition of gentlemen from the South arose from their being afraid to hear the paper read. Afraid! Of what? Of whom? Afraid to read this miserable invocation to universal emancipation, addressed to that House by subjects of Great Britain, when they heard, from day to day, and

he trusted without fear, the ravings of incendiary fanatics from a part of our own country! Afraid, when the subject of abolition had been agitated with open doors in the State Legislatures, and was daily discussed in the presses of the South! Afraid to listen to a miserable effusion of this sort! No. But what they were afraid to do was, to give any sanction, to affix any respectability, to an insolent interference, by foreigners, in the affairs of a portion of the States of this Union, who would not even suffer the General Government itself to legislate in reference to them—an interference with the subject, respecting which more than one memorial coming from our own citizens, had been indignantly thrown out of that House. He repelled such a taunt upon the House with the scorn it merited. Southern gentlemen were not afraid to hear the miserable paper read. He was glad to hear the gentleman from Virginia (Mr. MERCER) announce his intention to let the memorial be seen by all the people of the United States. He was especially glad that the people of Virginia, and that the constituents of the gentleman himself, would have an opportunity of knowing what it was that that gentleman had seen fit to throw into that arena as a brand to kindle up the flames of discord in that House. In saying this, he meant nothing disrespectful to the honorable gentleman. It might have been, he hoped it was, he believed it was, a misconception of the true nature of that paper, and a momentary forgetfulness of the impropriety of the step, which had occasioned the gentleman to introduce it. But still, if the thing was in itself a firebrand, sure to light up the flames of discord, it was proper that the people should know it.

Mr. BRIGGS, of Massachusetts, said he had run his eye over the memorial, and he believed that when it should be laid before the public, the people would be greatly surprised at the debate to which it had given birth. He was satisfied that there had been no intention on the part of those who offered the memorial to touch upon that very delicate subject which was so apt to produce excitement in that House. Regarding, however, that subject as one which belonged exclusively, by the constitution and laws of the country, to that portion of the Union where the colored population was chiefly found, he concurred in the opinion that it ought to be avoided as a fruitful source of excited feeling.

It was true that his constituents took a deep interest in the success of the colonization cause, but the people of the North, so far as he had had an opportunity to know them, had no idea of interfering, in the most remote degree, with that species of property which was held by their Southern brethren. They never had done it, and never would do it. They had no wish, no thought of shaking the security of slave property at the South, or intermeddling with it in the remotest manner. Knowing this as he did, gentlemen might readily conceive, that when he heard his constituents repeatedly accused of a desire to disturb the slave question, he felt that they were unjustly accused. No; let him tell gentlemen of the South, that if the stability of this Union was never to be disturbed till the people of the North attempted to invade the security of the tenure by which those gentlemen controlled slave labor, the Union would last while time endured. If the fair fabric of our social institutions was never to be shaken till the people of the Northern States overleaped the bounds of the constitution to meddle with the property of their Southern brethren, those institutions would stand till time had crumbled the solid columns that surrounded that Hall, and laid them prostrate in the dust.

The question of reconsideration was then put, and carried; and Mr. MERCER withdrew the memorial from the House.

The following is the memorial presented by Mr. MERCER, which gave rise to the above debate:

CIRENCESTER, (ENGLAND,) *January* 25, 1832.

To the honorable House of Representatives of the United States of America, the undersigned, members and friends of the American Colonization Society, resident in Great Britain, respectfully present the following address:

Deeply impressed with sentiments of abhorrence of the evils of the slave trade and slavery, we resort to your honorable House as to a refuge for the oppressed, under the sanction of a consoling trust that circumstances are, at this crisis, highly favorable for effecting a beneficial change in the condition of the colored population of the United States; and in the full belief that you, as conservators of liberty, will lend every possible aid to the sacred cause.

We feel attached by language, lineage, and religion, to our American brethren, and we sincerely rejoice in the growing prosperity of their beloved country; but we fear that that prosperity may, at no very distant period, be exposed to danger, should not the system of slavery which prevails in several of the States be materially corrected, if not wholly eradicated

It appears to us as an incontrovertible fact, that a mixed population of whites and blacks cannot, in the nature of things, cordially unite, nor experience those reciprocal, social blessings which either of the classes might, if separate, enjoy.

Under this conviction, we, your memorialists, beg to lay before your honorable House a concise view of those circumstances to which we have alluded, and that appear to us of a character so auspicious to the eventual relief of America from the lamentable consequences of slavery, and to the restoration of the emancipated to a proper station in society.

The leading point to which we would refer is the rising colony of Liberia, on the western shores of Africa, established by the silent, persevering, and judicious efforts of the American Colonization Society, to which we steadily look as an asylum pointed out (may we say?) even by the finger of Divine Providence, where the sons of Africa will find a climate congenial with their constitutions, and may form a society peculiarly adapted to develop their capabilities, and, what is more, to extend civilization and Christianity into the very heart of Africa,

and to establish a legitimate commerce on the ruins of that most infamous traffic, the slave trade.

It appears that numerous offers of slaves for emancipation and colonization are made to the society, which, to the extent of its means, it eagerly embraces; but, for the purposes of so great an undertaking, the means of individuals, or of the society, are too limited. Happily for America, she is about to be exonerated from a public debt; and we venture respectfully to ask, to what better purpose can national resources be applied?

In conclusion, we presume to solicit such aid on behalf of the American Colonization Society, as to your honorable House may seem meet; and we shall ever feel ourselves anxious to do all in our power to promote the welfare of the United States, and to sustain the amicable relations which so happily subsist between that country and our own.

[Signed by forty persons.]

SATURDAY, April 14.

Breach of Privilege.

The SPEAKER laid before the House the following letter from the honorable WILLIAM STANBERRY, a member of the House from the State of Ohio:

To the honorable ANDREW STEVENSON,
Speaker of the House of Representatives:

SIR: I was waylaid in the street, near to my boarding-house, last night, about eight o'clock, and attacked, knocked down by a bludgeon, and severely bruised and wounded by Samuel Houston, late of Tennessee, for words spoken in my place in the House of Representatives; by reason of which, I am confined to my bed, and unable to discharge my duties in the House, and attend to the interests of my constituents. I communicate this information to you, and request that you will lay it before the House.

Very respectfully, yours,
WILLIAM STANBERRY,
Member of the H. of R. from Ohio.

April 14, 1832.

Mr. VANCE, thereupon, offered the following resolution:

Resolved, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending to the House, commanding him to take in custody, wherever to be found, the body of Samuel Houston, and the same in his custody to keep, subject to the further order and discretion of the House.

Mr. V. quoted, in support of his motion, two precedents, one in 1795, in the case of Randall and Whitney, two land speculators, who had proposed a bribe, in lands or money, to two members of the House, on condition of the passage of a certain bill, which proposal the members had laid before the House as the basis of a motion similar to that which he had now made. The other case was that of John Anderson, which, he presumed, would be recollected by many of those now present. In both cases a breach of privilege had been alleged to have been committed, by an attempt to bribe members of the House. Mr. V. had not been able to find any case in precedent of a personal assault for words spoken in debate; but, believing it to be at least as great a violation of the privileges of the House to assault a member in the public streets for what he had uttered in debate, as to offer him a bribe with a view to carry a desired measure through the House, he had thought it proper to follow the precedent, and had therefore put his resolution in the same words which had been employed on those occasions.

Mr. POLK said that it occurred to him that such a resolution as this required some consideration. On hearing, this morning, just before he came to the House, of the occurrence referred to in the letter just laid before the House by the Speaker, and on hearing, also, that the subject would probably, in some shape or other, be brought to the notice of the House this morning, he had supposed that the utmost extent to which any gentleman would think of going, under the circumstances, would be to propose an inquiry by a committee. The resolution assumed the fact that a contempt on the House had been committed, and that the House possessed the power to punish it. Every gentleman must be aware that a great difference of opinion always had existed as to the power of that House to punish as a contempt any act which did not interrupt or impede the business of the House. Yet, what did this resolution propose? It not only asserted the doctrine that the House might punish an act not committed in its presence, or interrupting its proceedings, but it is proposed that, without further inquiry, they should deprive a citizen of his liberty, and direct their Sergeant-at-Arms to seize and to hold him in custody. Mr. P. did not admit that the House possessed any such power; and he believed that a great majority of that House, upon a deliberate and full examination of the question, would hold the same sentiments with himself.

Mr. JENIFER, of Maryland, called for the reading of the letter of Mr. STANBERRY, and the resolution of Mr. VANCE; and they were again read at the Clerk's table.

Mr. J. then observed that he had not supposed it possible that a single voice could have been raised in that House, or in the country, against the exercise of a power which must be dictated by common sense. Mr. J. held that the constitution imperatively called upon them, as representatives of the people to protect themselves in the exercise of their duty. It expressly declared that no member might be brought into question elsewhere for words spoken in that House. Now, he would like to know whether, in the present case, there had not been an attempt not only to question the words of the member assaulted, but to arrest his further progress—not only to question the manner in which he had exercised his privilege, but to deprive him altogether of the power of exercising it. A member of that House had stated to the Speaker—what? a surmise? a doubt? No.

Mr. SPEIGHT, of North Carolina, moved to amend the resolution by striking out all after the word "Resolved," and inserting the following:

"That a Select Committee be appointed, to whom shall be referred the communication of the honorable WILLIAM STANBERRY, a member of this House from the State of Ohio, in relation to an assault committed on him by Samuel Houston, with power to take such steps as will ensure a thorough investigation of the transaction."

Mr. DODDRIDGE called for the reading of the case of Anderson, which had been referred to, and the Clerk, thereupon, read an extract from the journals of the House containing its proceedings in that case.

Mr. COULTER, of Pennsylvania, said: If they were to go into a tedious examination of witnesses before a committee, they might as well turn over their injured fellow-member to the courts of the District. The preservation of that House was not to wait the slow forms of justice; and therefore the power was given to it to supersede those forms, and to act at once where its safety was threatened. But if a member, whose person had been assailed in the public streets for words uttered in debate, was to be thrown off to a distance till reports of committees were prepared and debated, they might as well leave him to bring his complaint before the court of the District, and thus subject the privileges of that House—of that House did he say? —no, the privileges and rights of the people of the United States, to the determinations and award of the court which sat in a neighboring building. He said the privileges of the American people; for this was not a question as to the privileges of the member from Ohio; it touched the privileges of the people of Ohio. Should the House deny the process asked by the resolution, and refuse to exercise the power which even the gentleman from Tennessee himself admitted it to possess, (for he had stated the case wherein it might be exercised,) they would not cast a slight upon the gentleman from Ohio. They would do him no injury, for he possessed a spirit which would raise him above the indignity he had received; but they would inflict a blow upon the people whose representative he was, and for the preservation and vindication of whose rights the power to punish had been vested in that House.

Mr. DRAYTON said: The question divided itself into two inquiries. First, whether the House had the power to act under the resolution; and, secondly, if it had, in what manner the resolution was to be executed.

Mr. D. desired, in the outset, that the House should be deeply impressed with the sentiment that when once the day should arrive when freedom of discussion in that Hall should be restrained, the pillars of the constitution would totter, and the fair temple of our liberties must speedily fall. And would any man tell him that the freedom of debate could be preserved if a member of that House, for words spoken in his place as a representative of the people, was to suffer personal violence? Should such a principle receive the sanction of the House, an individual, for doing what he conceived to be his duty to the country, might not only suffer personal violence, but be put to death with impunity, so far as the House was concerned. If the House had no power to punish in the case of an assault, it had no power to punish in a case of murder. To preserve, then, a right so sacred as the right of debate, ought not some power to be given? Was the right of punishing such outrages to be a mere barren right? an abstraction? existing in the *lex parliamentaria* alone, and never to be acted on? If the right existed, it must be acted on, or it would become a mockery. In this case, an assault had been committed for words uttered by a member of that House, in his place. Mr. D. begged that it might be distinctly understood that in this matter he was not governed by any party or personal considerations. He did not for a moment consider to what political party the gentleman from Ohio belonged. He looked only to the protection of the House in those rights, without which there could exist no such thing as a republican assembly; he looked only to the consequences which must ensue, should such an outrage be passed over without the solemn action of that House. As to the particular individuals concerned, they were totally out of the question with him. Had they been Mr. D.'s personal or political friends, the question would not be in the least altered; his mind was directed to the stability and integrity of our republic, and at what might be the issue of such a state of things should an attack like this upon the privileges of that body be lightly passed over.

It did appear to that House that the gentleman from Ohio had been attacked and maltreated for words spoken by him on that floor. If the House had any power, under any circumstances, to punish for a contempt, and this was not one of those cases, then such a case never could occur, and the power could not be called into exertion in any case whatever. That which appeared to be the popular principle, as urged in the debate, would, on investigation, prove to be not the popular, but, in reality, the monarchial principle. The true popular principle was the preservation of the powers of that House. What did the House consist of? The representatives of the people. And what were its rights and its privileges? They were the rights and the prerogatives of the people.

No greater power existed in a convention than pertained to that House under similar circumstances. Could there be any question, whether, if a convention of the people themselves was assembled, and one of its members should be maltreated, as a member of this House had now been, that there would not be a power in that body to prevent the repetition of the outrage? If not, how was a constitution ever to be formed? or how could it be amend-

ed? Would not even a constituent assembly itself be liable to the influence of external terror? If such a doctrine should be sanctioned, the country might have a constitution which embodied the will, not of those who appeared to be represented, but of a small junta of nefarious men, who, with a strong arm, interposed to domineer over it. It might be said that he was putting an extreme case. Admitting it to be so, the principle was the same. But was he indeed holding up to view a fancy picture? or had not this very case arisen, and that in recent times? Did not the experience of France afford to the world, on this subject, an impressive and a warning lesson? Whoever had turned his attention to the various successive Governments which had been inflicted upon that unfortunate country, could never cease to recollect, that first in the national Assembly, that afterwards in the constituent Assembly, and then in the national Convention which succeeded, it had been the galleries which dictated the laws. It was lawless violence, at the head of brutal and infuriated mobs, which dictated the laws by which France was governed; by which an unsparing proscription had filled the prisons and reared the guillotine; by which murders had been pronounced legal; and which had led to slaughter, without even the form of trial, tens and hundreds of thousands of innocent men, of helpless women, and even of smiling infants from the cradle. The laws, it was true, had been enacted by assemblies having the power to pass laws. But were those assemblies free? Could they be called a free assembly whose members were warned beforehand by political combinations, that if they voted for certain measures, which those combinations disapproved, they would be considered among the proscribed, and would be tried before the revolutionary tribunal? Mr. D. would not say that such consequences were to be feared in this country, or at this time, but they had occurred where the freedom of speech had once been manacled by an extraneous power; and there was no better way to prevent the occurrence of so deplorable a state of things, than to inflict an exemplary punishment on the man who should take the first step to produce it.

The power to punish for contempts, which now existed in the British Parliament, had not always resided in that body. Till the time of the first James, the Government of that country, if not absolutely despotic, had differed but little from it, and instances were on record in which members of Parliament had been called to account by the Crown for exercising the liberty of speech. Afterwards, however, the nation had gradually imbibed more popular principles, and with the growing light of liberty came this very power to punish contempts of Parliament. From the moment when the British Parliament became, in some good degree, a body of the representatives of the people, its power to commit for contempts began to be recognized. He repeated, therefore, that the argument which denied the existence of this power, while at the first view it appeared to be the popular argument, was in fact directly the reverse. It was the argument for despotism.

Mr. PATTON, of Virginia, said he would endeavor to produce his views upon the question, and the only question which the House was now called to decide. It had been with inexpressible astonishment that he had heard the resolution read, when it was proposed by the gentleman from Ohio; but his astonishment had been destroyed by the fact which had been disclosed since the discussion opened, viz: that the course proposed by that gentleman was the course which had been heretofore pursued by the House in cases of alleged contempt. Mr. P. did not know, nor would he stop to inquire, whether the former cases did or did not differ from the present, as to the form in which contempt was committed. On that point he should make no remarks, but should at once take the bold and broad ground that in no case of proceeding by any judicial body ought a peremptory attachment to proceed, to incarcerate an individual charged with contempt, in the first instance, unless the contempt had been one committed in the presence and face of the tribunal, and going to disturb its deliberations, and unless the case was such that the immediate custody of the person of the offender was indispensable to the exercise by the tribunal of its proper functions. Unless the House governed itself by this rule, what enormous, and what irreparable injustice might it not do? In the present case, an individual was charged with having committed an assault, such as, under an excited state of feeling, the most honorable man in the community might commit. Mr. P. knew nothing about the individual, and had no acquaintance with him: nor had he with the member from Ohio, except such as necessarily arose from the ordinary intercourse in that House. He was, therefore, influenced by no personal feeling towards either of the parties. But was it not wonderful that the process of that House should be called for upon a mere statement or affidavit? (He cared not which. To him it made no difference. He could just as soon act, and the House had just as much right to act, on the one as the other.) But he maintained that the House had no right, proceeding on the principles of criminal law, to issue any peremptory proceeding, until it had taken a previous step in the nature of a rule upon the party, giving him an opportunity to show that the complaint was unfounded in fact, or the proceeding unfounded in law.

He appealed to every gentleman who heard him, to say whether it was usual, whether it was customary, whether it was lawful, on a mere charge of contempt, to apprehend an individual by process from that House, except in the case that he had stated. It had been said that the accused party might fly. So he might in any ordinary case of assault and battery. So

he might when accused by a grand jury, and not imprisoned. In no case could it be shown that a court acting on a matter of contempt had arrested and imprisoned a citizen till he had first been allowed an opportunity to come before the court, and to show, if he could, that the accusation against him was unfounded. Gentlemen were overleaping the preliminary step, and urging the House to rush at once to judgment. The resolution called upon the House, not to investigate, but at once to perform an act, the effects of which might, in many cases, be a more severe punishment than the House would be willing to inflict after the examination had been made. Mr. P. knew no case which had any analogy to it; unless it was in that court of the infernal regions, where it was said of the judge, *castigat auditque.* He punishes, and then hears. Unless some stronger arguments should be adduced than those which he had yet heard, he could not consent to vote for the resolution. He admitted that the House might, in some cases, punish for a contempt, not, however, in redress of the wrongs of the gentleman from Ohio—the courts were open to him—but for the purpose of asserting the dignity of the House, and guarding its right to deliberate in freedom.

Mr. FOSTER, of Georgia, inquired of the Chair whether the affidavit of the honorable member from Ohio (Mr. STANBERRY) was before the House, and connected with his letter.

The Speaker replied that it was.

This, then, continued Mr. F., relieved him from the principal difficulty which he had felt with regard to this proceeding. As to his individual opinion, he was as well satisfied of the truth of the statement contained in the letter before the affidavit was introduced, as he was now; but when called on as a member of this House to vote for the exercise of a high prerogative of the House, he could not do so on the bare statement of any individual. It has been said that a statement made by a member in his place is equivalent to an affidavit; and several precedents had been referred to, where individuals have been arrested, by order of the House, on such statements. With regard to the precedents, Mr. F. said they would not govern him, when, in his judgment, they were contrary to law. He knew very well that we were in the habit of giving credit to whatever is averred by a member of the House. This, however, was a mere matter of courtesy; and we should take care that we do not carry our courtesy to each other so far as to violate the rights of others. We are now applied to institute a proceeding affecting the liberty of a citizen; let us see, then, that it is done in exact compliance with the forms and principles of law.

But, said Mr. F., a reference to the constitution will remove all doubt, and render further argument on this point entirely unnecessary. In that instrument it is expressly declared that "the right of the people to be secure in their persons, houses, &c., shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation," &c. With this provision in the great charter of our rights staring me in the face, said Mr. F., I cannot, I dare not, vote for the process now moved, unless an affidavit, on which to found it, had been furnished us.

Mr. F. said the issuing of the warrant moved for had been objected to because the very arrest would be a punishment, to which the party accused ought not to be subjected before an investigation is had. He could not perceive the force of this objection. Every individual in the community is liable to be arrested when legally charged with a violation of the laws of the land. Suppose that, instead of prosecuting General Houston for a contempt of this House, the gentleman from Ohio had applied to a magistrate of the District for a warrant on a charge of assault and battery, would there be any doubt as to the power to have the party arrested? Certainly not. Why, then, have we not the same right to order an arrest in the one case, that a justice of the peace would in the other? It is no greater punishment to be arrested by our Sergeant-at-Arms than by a city marshal or constable.

Mr. EVERETT, of Massachusetts, said that he did not rise for the purpose of entering into this debate. All that he could have said that would have been pertinent to the question, had been said by others. There was one remark, however, of the gentleman from South Carolina, (Mr. DRAYTON,) which had struck him unpleasantly. And, as all that fell from that member deserved, and always received, the attention of the House, Mr. E. felt bound to take some notice of it. That gentleman had said that he was glad that the motion for the previous question had not been successful, and he had thought proper to add, that he should have considered its success a sort of treason to the constitution. Mr. E. had been one of fifty or sixty members who had voted in favor of that question, and it was therefore incumbent on him, in repelling so grave a charge as that of treason to the constitution, to give some explanation of the grounds on which he had voted in favor of the motion. He need not recapitulate the resolution on which the main question could have been put. The gentleman from Tennessee (Mr. POLK) had seriously questioned the power of the House to proceed by attachment, and was for turning over the injured member to the courts of the District, as if it was a matter in which he alone was concerned. The gentleman from Virginia (Mr. DODDRIDGE) had deprecated as a great evil, that a discussion should proceed in that House upon such an assumption—an assumption which went the whole length of maintaining that, even if one of its members should be murdered in consequence of the part he had taken in debate upon that floor, the House could cast no eye to the rights of his constituents, and could not complain that its own rights

had been injured, or its privileges violated. The gentleman from Virginia had not been willing that a discussion should proceed, which took all this for granted, and on that ground had moved the previous question. Mr. E. agreeing with him in sentiment, had, on the same ground, voted to sustain the motion. He had been willing to arrest the discussion for the sake of securing the very object which his friends from South Carolina pronounced to be of such vital importance, viz,. the freedom of debate. If the House were gravely to entertain elaborate arguments on the question whether they had power to proceed in such a case, the very discussion itself would have an injurious bearing on the freedom of debate in that House. The freedom of debate, it was saying little to say that it was the dearest privilege of freemen—it was their life—the life of the members, and the political life of the body itself. What had now been done by one man, might be done by armed mobs. Suppose an infuriated mob, headed by some political demagogue, should waylay, not one, but twenty or thirty of the members of the House, would they turn over those members to the courts of the District of Columbia, and leave them to get their remedy by action for assault and battery? To what was it that they owed the fact of their meeting in that spot? Why did not the Congress still assemble as formerly in Philadelphia? Was it not because an insult had been offered to Congress in that city? None of the members were knocked down there: none of them were bruised and wounded so as to be kept from attending the House; but an insult had been offered to a member in the public theatre, as it was understood, and believed, in consequence of the part he had taken in the public proceedings. They were told that if they would remain, the State would protect them; that the Legislature of Pennsylvania would hold its shield over them; but no! they said they would go to a district of their own, to a spot where they should not be dependent on the sheriffs and marshals of a district authority. They would go where they could protect themselves, and it was that determination which had laid the foundations of the capitol upon this rock. If the time should ever come when the members of that body were to be turned over to such a court as that which sat in this District, and the House would not assume the injuries inflicted upon its members as done to itself, the constitution would no longer be worth living under. The sooner they went home the better—or if they continued to come to that place, the sooner they armed themselves with dirks and pistols, the sooner they would be safe; for then they would understand that the House would not protect them.

Mr. WAYNE, of Georgia, said that he did not at all doubt that a gross outrage had been committed, and he was willing that it should be punished. But he did not like the proposed mode of proceeding. It was against all his notions, and all those principles which he had derived from the best sources. He could not approve of the appointment of a committee before the House had taken some steps by which its dignity and its privileges might be vindicated. Two propositions were before them. The one was that the Speaker should issue his order for the apprehension of the individual. The other, that a committee should be appointed to investigate the case, and to report. Mr. W. was about to make a suggestion which was different from either of these courses; for he did not think that the House could with propriety adopt either of the propositions which had been submitted to it. He denied the power of the House, in case of contempt, to proceed by peremptory process, unless the contempt had been committed in its immediate presence. The reason of this distinction he took to be, that when the insult was committed in their own presence, they were all judges of the fact, and had the circumstances all before them. He held that the proceedings of a deliberative body, on the subject of contempts, should be parallel to those observed in a court of justice. If a contempt were committed in the face of the court, the court had power to punish it in a summary manner; but might, if they pleased, postpone their process, and proceed more deliberately. But, for a contempt committed out of court, no such proceeding could be justified. And so, in the case of a deliberative body, the proceeding might not be summary, unless the contempt were committed in presence of the assembly, and tended to interrupt or prevent its deliberations. He asked gentlemen to produce an instance, whether in Parliament, or in any court of justice, organized as it should be, when an individual charged with a contempt had been arrested, in the first instance. He knew that examples might be found in our country, and it was not surprising that it should have occurred. But the course pursued was, first to issue what was called a rule *nisi*, by which the individual was called upon to purge himself of the contempt. The rule was founded upon this salutary principle, that, before you take away the liberty of a citizen, you shall proceed with the utmost caution. If in the present instance the House should call upon this individual to purge himself of the alleged contempt, and he should refuse so to do, then the order of the House would issue, and that order ran into every part of the country. If he had fled, it would follow him. Gentlemen seemed to think it necessary to issue the process of the House at once, in order to bring this person before them, but the Speaker had no discretion as to the form of the process. His order would be directed to the Sergeant-at-Arms to seize this individual, and him safely to keep. What, then, would follow on his being brought up? The order would not be relaxed, and he must, therefore, be retained in the custody of the Sergeant-at-Arms. To this Mr. W. was opposed. He knew nothing personally of

this individual. He had no acquaintance with him, and he had no doubt that he had committed a brutal outrage. But still the House was not to arraign him as a criminal, and there was the mistake of gentlemen. The House was not to proceed as a court would do in the case of crime or misdemeanor. The only way in a criminal proceeding was to apprehend the accused upon affidavit. But this case was of a mixed nature. The House had no right to inflict its sanction beforehand. The apprehension of the individual amounted to a species of corporal punishment. This was not to be inflicted in the first instance. The House, while it was taking steps to vindicate its own rights, should be cautious so to proceed, that the rights of the citizen should not be invaded. He considered it utterly out of the question for the House to adjourn without taking some step in this affair. He never would vote for such a motion until something should have been done, and he should now wait till the question was taken on the motion for a Select Committee, and if that proposition should fail, then he would offer an amendment on the principle he had indicated.

Mr. BEARDSLEY observed, that when this complaint was presented, his first impression had been that the House was authorized to receive it, and to proceed and inflict suitable punishment, if the charge should turn out to be well founded. It was due to himself to add, that an examination of the constitution, and the views which had been presented in the course of the debate, together with the consideration that he had been able to bestow upon the subject, had satisfied him that his first impression was erroneous. If the House would indulge him, he would state the grounds upon which he had come to that conclusion.

The honorable gentleman from Ohio, (Mr. STANBERRY,) in the communication to the Chair, which had been subsequently verified by his oath, had stated that he was last evening waylaid and attacked by an individual in one of the streets of this city, knocked down with a bludgeon, and beat with great severity, so that he was now confined to his bed, and unable to attend in his place in that Hall. This outrage is also stated to have been committed in consequence of language which had been used by him in this House. Upon these facts, which, in this posture of the proceeding, we must take to be incontrovertible, the inquiry arises, is the House authorized to arrest and punish the offender? It was not the province of the House to decide what redress for the indignity and suffering would be afforded to the injured party in a court of law, nor was it for this House to invoke the power of a court of criminal jurisdiction, in which this offence would no doubt be prosecuted, and an adequate punishment inflicted. There the rights of the injured party would be well understood and appreciated, and the violated peace of the country vindicated. Nor was it material to inquire what power to provide for the punishment of cases like the present had been delegated to the entire legislative branch of this Government. Congress had not legislated upon the subject. The present appeal was to the power of this House alone. He had examined into the constitution in search of that power. He was aware that some powers were expressly delegated to this House by it; that others were incidental and necessary: and he was also aware that Congress, not the House alone, might make all laws necessary and proper to carry into execution all the powers vested in the Government of the United States, or any department or officer thereof.

The call was seconded by a sufficient vote.

The main question was put, being upon the original motion of Mr. VANCE, viz:

Resolved, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending to the House, commanding him to take in custody, wherever to be found, the body of Samuel Houston, and the same in custody to keep, subject to the further order and discretion of the House.

And it was determined as follows:

YEAS.—Messrs. Chilton Allan, Allison, Anderson, Angel, Appleton, Archer, Arnold, Ashley, Babcock, Banks, Noyes Barber, John S. Barbour, Barnwell, Barringer, Barstow, Isaac C. Bates, James Bates, Bell, Bethune, James Blair, John Blair, Bouck, Briggs, John Brodhead, John C. Brodhead, Burd, Burges, Cahoon, Chandler, Choate, Claiborne, Coke, Collier, Lewis Condict, Silas Condit, Eleutheros Cooke, Bates Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, Davenport, John Davis, Warren R. Davis, Dayan, Denny, Dewart, Dickson, Doddridge, Doubleday, Drayton, Duncan, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Felder, Ford, Foster, Gilmore, Gordon, Grennell, Griffin, Thomas H. Hall, Hawkins, Heister, Hodges, Hoffman, Hogan, Hubbard, Hughes, Hunt, Huntington, Ingersoll, Irvin, Jenifer, Charles C. Johnston, Kavanagh, Kendall, Kennon, Adam King, John King, Henry King, Lamar, Lansing, Leavitt, Lent, Letcher, Mason, Marshall, McCoy, McIntire, McKay, McKennan, Mercer, Muhlenberg, Newnan, Newton, Pearce, Pendleton, Pitcher, Plummer, Potts, Randolph, John Reed, Edward C. Reed, Roane, Root, Russel, William B. Shepard, Augustine H. Shepperd, Slade, Smith, Stephens, Stewart, Storrs, Sutherland, Taylor, Philemon Thomas, John Thomson, Tompkins, Tracy, Vance, Verplanck, Vinton, Wardwell, Washington, Wayne, Weeks, Wilkin, Wheeler, Elisha Whittlesey, Frederick Whittlesey, Campbell P. White, Edward D. White, Wickliffe, Wilde, Williams, Worthington, Young—145.

NAYS.—Messrs. Beardsley, Boon, Bucher, Clay, Conner, Fitzgerald, Harper, Hawes, Holland, Horn, Jarvis, Jewett, Cave Johnson, Lecompte, Lewis, Lyon, Mann, Mardis, Thos. R. Mitchell, Patton, Pierson, Polk, Speight, Standifer, Wiley Thompson —25.

So the resolution was agreed to.

MONDAY, April 16.

Breach of Privilege—Case of Samuel Houston.

The SPEAKER announced to the House that the Sergeant-at-Arms had executed the order committed to him, and that Samuel Houston was now in the custody of that officer. Whereupon,

Mr. DAVIS, of Massachusetts, offered the following resolution:

Resolved, That Samuel Houston be brought to the bar of the House on Thursday next, at twelve o'clock, to answer to the charge made against him by WILLIAM STANBERRY, of Ohio, a member of this House, in his letter and affidavit; and that he be forthwith furnished with a copy of said charge and letter of said Stanberry, by the Clerk.

Mr. DAVIS, after explaining and vindicating the motives which had led to the resolution he had offered, agreed to modify it in such a manner as that the accused party might forthwith be brought to the bar of the House.

The resolution of Mr. DAVIS was modified by him at the suggestion of Messrs. FOSTER and WICKLIFFE, so as to read as follows:

Resolved, That a Committee on Privileges, consisting of seven members, be appointed and instructed to report a mode of proceeding in the case of Samuel Houston, who is now in custody by virtue of an order of this House, and that said committee have leave to execute the duty assigned them immediately.

The resolution was adopted almost unanimously.

After a brief interval, Mr. Houston was brought in the custody of the Sergeant-at-Arms, and placed at the bar of the House; when the SPEAKER addressed him as follows:

"Samuel Houston, you have been brought before this House, by its order, to answer the charge of having assaulted and beaten WILLIAM STANBERRY, a member of the House of Representatives of the United States from the State of Ohio, for words spoken by him, in his place, as a member of the House, in debate upon a question then depending before the House. Before you are called upon to answer, in any manner, to the subject-matter of this charge, it is my duty, as presiding officer of this House, to inform you that if you desire the aid of counsel, the testimony of witnesses, time to prepare for your defence, or have any other request to make in relation to this subject, your request will now be received and considered by the House. If, however, you neither wish for counsel, witnesses, or further time, but are now ready to proceed to the investigation of the charge, you will state it, and the House will take order accordingly."

To which the said Samuel Houston answered as follows:

"Mr. Speaker, I wish no counsel: I shall require the attendance of witnesses. Having but this moment been apprised of the course which would be pursued by the House, and believing, as I do, that this investigation is to form a precedent, essentially involving the liberty of American citizens, I will claim at least twenty-four hours to prepare my response to the accusation."

A committee was then appointed to report the proceedings proper to be observed by the House in the trial of the case, as heretofore stated.

[The following gentlemen composed the committee, viz: Mr. DAVIS, of Massachusetts, Mr. COULTER, Mr. HUNTINGTON, Mr. PATTON, and Mr. BEARDSLEY.]

TUESDAY, April 17.

Case of Samuel Houston.

Mr. DAVIS, of Massachusetts, from the Committee on Privileges, appointed on Monday, presented the following report:

The Committee on Privileges, who were instructed by the House to report a mode of proceeding in the case of Samuel Houston, who is now in custody, under a warrant issued by order of the House, upon the complaint of WILLIAM STANBERRY, one of its members, for assaulting and beating the said STANBERRY for words spoken in his place on the floor of the House, recommend the adoption of the following order:

Ordered, That the following course of proceedings be observed, namely:

Said Samuel Houston shall be again placed at the bar of the House, and the letter of said Stanberry shall be read to him; after which, the Speaker shall put to him the following interrogatory:

Do you admit or deny that you assaulted and beat the said Stanberry, as he has represented in the letter which has been read, a copy of which has been delivered to you by order of the House?

If the said Samuel Houston admit that he did assault and beat the said Stanberry, as in said letter is represented, then the Speaker shall put to him the following interrogatory:

Do you admit or deny that the same assault and beating were done for and on account of words spoken by the said Stanberry in the House of Representatives in debate?

If the said Samuel Houston admit the assault and beating, and that they were for the cause aforesaid, then the House shall consider the charge made by the said Stanberry as true, and shall proceed to judgment thereon.

But if the said Samuel Houston deny the assault and beating, or that the same were done for the cause aforesaid, or refuse, or evade answering said interrogatories, then the said William Stanberry shall be examined as a witness touching said charge; after which, the said Samuel Houston shall be allowed to introduce any competent evidence in his defence; and then any further evidence the House may direct shall also be introduced.

If parol evidence is offered, the witnesses shall be sworn by the Speaker, and be examined at the bar, unless they are members of the House, in which case they may be examined in their places. A committee shall be appointed to examine witnesses. The questions put shall be reduced to writing, (by a person to be appointed for that purpose,) before the same are proposed to the witness, and the answers shall also be reduced to writing.

Every question put by a member not of the committee, shall be reduced to writing by such member, and be propounded to the witness by the Speaker, if not objected to; but if any question shall be objected to, or any testimony offered shall be objected to by any member, the member so objecting, and the accused, or his counsel, shall be heard thereon; after which, the question shall be decided without further debate.

When the evidence is all before the House, the said Samuel Houston shall be heard on the whole matter by himself, or his counsel, as he may elect.

After the said Samuel Houston shall have been so heard, he shall be directed to withdraw, and the House shall proceed to consider the subject, and to take such order thereon as may seem just and proper.

Said Samuel Houston shall be furnished with a copy of this order.

The report of the committee was concurred in unanimously.

The committee was then ordered to consist of five members, a proposition for seven having been previously negatived.

Some discussion ensued as to the particular time of proceeding to trial.

Finally, to-morrow, at twelve o'clock, being the time said to be preferred by General Houston, was unanimously agreed to.

WEDNESDAY, April 18.

Case of Samuel Houston.

This subject was, according to the order of the day, taken up.

Mr. JOHNSON, of Tennessee, offered a resolution that Samuel Houston be allowed to employ counsel to aid him in his defence. Mr. J. stated, in explanation, that Mr. Houston, although he had, when put to the bar, stated to the House that he had no desire for counsel, had, on further reflection, come to a different conclusion, and that the present resolution had been offered at his request.

The resolution was agreed to.

Samuel Houston was now brought to the bar of the House by the Sergeant-at-Arms, accompanied by his counsel, Francis S. Key, Esq., when the SPEAKER, after announcing to him the nature of the charge he was called to answer, notified him that, before proceeding to interrogatories, he was required to say whether he was prepared to proceed to trial according to the order which had been announced to him, or whether he had any other request to make of the House.

Mr. Houston, in reply, submitted the following paper, which was read by his counsel, and again read at the Clerk's table:

"The accused denies that 'he assaulted and beat' the said Stanberry as he has represented in the letter which has been read.

"He admits that he felt great indignation on reading in the *National Intelligencer* remarks, there stated to have been made on the floor of the House of Representatives by the said Stanberry, imputing to the accused, by name, a gross offence of which he knew himself to be innocent, and the dissemination of which throughout the country, by such publication, was evidently calculated to affect his honor and character. Under these circumstances, the accused was induced to inquire of said Stanberry, in a respectful note, whether the report of what he had said was truly set forth in said paper. To which inquiry thus made, said Stanberry refused to give any answer, in a manner calculated still further to injure the accused. The accused admits that he was greatly excited by these provocations, and that, under the influence of feelings thus excited, he did, on accidentally meeting the said Stanberry, assault and beat him, the accused being unarmed with any other weapon than a common walking cane, and believing the said Stanberry to be, as he in fact was, armed with pistols—that the meeting took place several hours after the adjournment of Congress, about eight o'clock in the evening, on the Pennsylvania Avenue, and nearly half a mile from the capitol, and on the opposite side of the Avenue from where Mr. Stanberry's boarding-house is situated; and that, at the time of this occurrence, he was neither seeking for, nor expecting to see, the said Stanberry.

"The accused denies that he intended to commit, or that he believed he was committing, any contempt towards the House of Representatives, or any breach of its privilege, or the privilege of any of its members. He denies that the act complained of constitutes any such contempt or breach of privilege, and is prepared to justify his conduct, so far at least as the rights and privileges of this House and its members are concerned, by proof."

The SPEAKER inquired whether Mr. Houston was prepared to proceed in the trial. To which he replied in the affirmative.

The letter of Mr. STANBERRY was then read.

The SPEAKER then put the first interrogatory, directed by order of the House, yesterday, as follows:

Do you admit or deny that you assaulted and beat the said Stanberry, as he has represented in the letter which has been read, a copy of which has been delivered to you by the order of the House?

The accused replied that his counsel would respond to the interrogatory for him; whereupon,

Mr. Key read from a paper, substantially, as follows:

He denies the charge in the form in which it was set forth; he admits that he felt great indignation on reading the remarks of Mr. STANBERRY, as reported in the *Intelligencer*, charging him with offences derogatory to his honor and character, of which he was innocent. He says that he inquired of Mr. S. if the report truly set forth what he had said, which inquiry Mr. S. refused to answer. He admits that he was greatly excited by the manner of this refusal, and did, on accidentally meeting with Mr. S., beat him. He says that he himself was armed only with an ordinary walking stick; that Mr. S. was armed with pistols; that he met him several hours after the House had adjourned, half a mile from the capitol, and on the side of the street

opposite that of Mr. S.'s lodgings. He denies that in what passed he intended to commit a contempt against the House, or a breach of the privileges of its members. He denies that the act involves such a contempt or breach; and is prepared to justify his conduct, as far as the House is concerned, by proof and argument.

The second interrogatory was then put to the accused by the SPEAKER, as follows:

Do you admit or deny that the said assault and beating were done for and on account of words spoken by the said Stanberry in the House of Representatives in debate?

To which the accused replied that the response given to the first interrogatory embraced an answer to the second, and he declined giving any other.

Mr. DAVIS, of Massachusetts, alluding to the absence of Mr. STANBERRY, moved that the further prosecution of the trial be suspended until to-morrow, at twelve o'clock.

Mr. VANCE stated that Mr. STANBERRY was able to attend whenever it might be necessary.

The motion was agreed to.

Mr. Houston and his counsel having retired,

Mr. DAVIS, on account of ill health, requested to be excused from serving on the committee appointed to superintend the examination of witnesses, and was excused accordingly.

On motion of Mr. DAVIS, Mr. Joseph Gales, junior, was appointed to take down the testimony.

THURSDAY, April 19.

Case of Samuel Houston.

The SPEAKER informed the House that, under the resolution adopted yesterday, Mr. Gales had consented to act as stenographer on the trial of Samuel Houston.

The hour of twelve having arrived,

Mr. Houston was again placed at the bar.

The SPEAKER asked him if he was ready to proceed in the trial, and he answered in the affirmative; whereupon,

Mr. COULTER, from the Committee on Privileges, moved that Mr. STANBERRY be now sworn, and called upon for his testimony.

The motion being agreed to, Mr. STANBERRY was sworn, in the usual form, to testify, &c.

[The testimony in the case is spread on the Journal of the House. In the following notices of the trial, such parts of the testimony only are introduced as are necessary to elucidate the debate on the different questions which arose.]

Mr. STANBERRY testified as follows:

On the 4th of this month, Mr. CAVE JOHNSON, a member of this House, presented to me a note from Mr. Houston, which I believe is now in possession of my colleague, (Mr. CREIGHTON, of Ohio,) which I request may be handed to the Chair so that it may be read.

The letter was handed to the Chair, and was read, and is as follows:

WASHINGTON CITY, *April* 3, 1832.

SIR: I have seen some remarks in the *National Intelligencer* of the 2d instant, in which you are represented to have said, "Was the late Secretary of War removed in consequence of his attempt fraudulently to give to Governor Houston the contract for Indian rations?"

The object of this note is to ascertain whether my name was used by [you] in debate; and, if so, whether your remarks have been correctly quoted.

As the remarks were inserted in anticipation of their regular place, "I hope you will find it convenient to reply without delay."

I am, your most obedient servant,
SAMUEL HOUSTON.

Hon. WILLIAM STANBERRY, *M. C.*

That letter was presented to me in this Hall. I do not remember whether the session of the House had commenced or not; and a desire was expressed by Mr. JOHNSON for a speedy answer to it. On the same day I wrote an answer, dated the 4th of April, but not presented until next day; which I handed to Mr. CREIGHTON, requesting Mr. CREIGHTON, before presenting it, to ascertain whether Mr. JOHNSON was acquainted with the contents of the note of Mr. Houston. That letter I wish to have read for the information of the House.

The letter was read, and is as follows:

"HALL OF REPRESENTATIVES, *April* 4, 1832.

"SIR: I received this morning, by your hands, a note signed Samuel Houston, quoting from the *National Intelligencer* of the 2d instant, a remark made by me in the House. The object of the note is 'to ascertain whether Mr. Houston's name was used by me in debate, and whether my remarks were correctly quoted.'

"I cannot recognize the right of Mr. Houston to make this request. Very respectfully, yours, &c.
"WILLIAM STANBERRY.

"The Hon. CAVE JOHNSON."

Mr. CREIGHTON, I understand, presented the note which has been read, to Mr. JOHNSON, in this Hall. Some time on the same day, Mr. JOHNSON came to me, and, after lamenting I had not thought fit to address an answer to Mr. Houston, said that, after consultation with his friends, he had come to the determination to have nothing further to do with the matter himself, and had handed the note to Mr. Houston, to take his own course. On the evening of the day on which I received the note from Mr. Houston, and before sending the answer, I had a consultation with some of my friends, who agreed with me upon the answer which was sent. It was the opinion of one of my friends (Mr. EWING, of Ohio) that it was proper I should be armed; that, immediately upon the reception of my note, Mr. Houston would probably make an assault upon me. Mr. EWING accordingly procured for me a pair of pistols and a dirk; and on the morning on which the answer was sent, I was prepared to meet Mr. Houston, if he should assault me. In the evening, at

my lodgings, I received a note from a gentleman of the name of McCarty, of Indiana, (not the member of this House,) informing me that he had something of importance which he wished to communicate. Subsequently, he told me that, being in the room of Mr. TIPTON, of Indiana, he had heard some gentleman whose name he did not mention, declare he had heard Houston say that he intended to shoot me in the street, and to have a man, whose name, I believe, was Armstrong, of Tennessee, in company with him. Mr. McCarty, I believe, communicated the same information to Mr. EWING, who came to the House with me next day, and I was prepared with my pistols cocked to defend myself; but I did not meet with Mr. Houston that day, though I saw him within the House. I expected every time I went out of, or came into, this Hall, to meet him, and I was always prepared for such an event. My object in desiring the company of Mr. EWING, was to have a respectable witness present, who was not to interfere between me and Mr. Houston, unless his own judgment should dictate it. I was unwilling that any thing between us should depend upon the testimony of such witnesses as Mr. Houston might have in his company. I continued prepared for the expected meeting until I began to think either that Mr. Houston never had an intention to attack me, or had relinquished it; but still kept a pistol in my pocket. On Friday night, at eight o'clock, (premising that I reside at Mrs. Queen's, on the south side of the Avenue,) I left Mrs. Queen's, crossed the Avenue, and stepped on the sidewalk near Mr. Elliot's, having one pistol in my pocket not cocked, having no expectation of meeting Mr. Houston. At the moment of stepping on the sidewalk, Mr. Houston stood before me. I think he called me by my name, and instantly struck me with the bludgeon he had in his hand with great violence, and he repeated the blow while I was down; he struck me repeatedly with great violence. I was either knocked down or thrown in the scuffle, I do not know which; while down, turning on my right side, I got my hand in my pocket, and got my pistol and cocked it; I watched an opportunity while he was striking me with great violence, and pulled the trigger, aiming at his breast; the pistol did not go off; I thought it did not snap, but I have since understood it did. He wrested the pistol from my hand, and, after some more blows, he left me. In reply to something which I said, I do not distinctly recollect what, Houston said "I had assailed him, and that he would be answerable to the laws of his country for what he had done."

Question by the committee.—Was any person or persons present with Mr. Houston, or near to him, when the blow was first inflicted?

Answer.—There was one individual; the transaction was so hurried, and the assault was so immediate, that I did not recognize him; the blow was inflicted by Houston instantly on my recognizing him. I think there was another with him, but he appeared to me to be standing still.

[After some further evidence by Mr. S.]

Question by the accused (to Mr. Stanberry.)—These remarks, thus published, impute a fraud to the accused; had you then, or have you now, any and what evidence of the correctness of such imputation?

To this interrogatory Mr. DICKSON, one of the members from the State of New York, objected.

And the question being taken—"Shall the said interrogatory be put?" it passed in the affirmative—yeas 101, nays 82.

Mr. STANBERRY then proceeded to answer as follows:

"It was no part of my intention to impute fraud to General Houston. His name was mentioned, merely that the transaction to which I alluded might be identified. I intended to make a charge against the late Secretary of War, and against the President, if he had a knowledge of the contemplated fraud and did not disapprove of it."

Mr. PATTON suggested that the witness ought not to proceed any further. As he denied all intention of imputing fraud to the respondent, any reply as to the grounds upon which the imputation of fraud was founded would be irrelevant.

Mr. VINTON called for the reading of the remarks of Mr. STANBERRY to which the interrogatory referred, and they were read accordingly.

Mr. WICKLIFFE, though he regretted that the interrogatory had been put, thought that it must be fully answered.

Mr. ADAMS expressed his hope that the gentleman from Virginia would move a reconsideration of the vote by which the House had ordered the interrogatory to be put and answered. The essential part of the answer had been given, and the House had no concern in the residue.

Mr. CRAIG moved that the witness be excused from further answering the interrogatory.

Mr. COULTER hoped that the counsel would consent to withdraw it; but if he should refuse, the whole answer must be given.

Mr. KEY expressed his willingness to relieve the House from its difficulty, by withdrawing the interrogatory. He was not influenced to do this by any fear of injury to the accused, for the answer given was that which of all others he most desired. But, to relieve the House, he would withdraw the interrogatory in its present form, and substitute another, inquiring of the witness whether he meant to impute fraud to the respondent.

Mr. MERCER observed that the counsel had no right to withdraw the interrogatory.

The SPEAKER replied that he had a right to ask leave.

It being now very late, Mr. L. CONDICT moved to postpone all further proceedings in this trial until twelve o'clock to-morrow.

The motion prevailed—and the House adjourned.

and to establish a legitimate commerce on the ruins of that most infamous traffic, the slave trade.

It appears that numerous offers of slaves for emancipation and colonization are made to the society, which, to the extent of its means, it eagerly embraces; but, for the purposes of so great an undertaking, the means of individuals, or of the society, are too limited. Happily for America, she is about to be exonerated from a public debt; and we venture respectfully to ask, to what better purpose can national resources be applied?

In conclusion, we presume to solicit such aid on behalf of the American Colonization Society, as to your honorable House may seem meet; and we shall ever feel ourselves anxious to do all in our power to promote the welfare of the United States, and to sustain the amicable relations which so happily subsist between that country and our own.

[Signed by forty persons.]

SATURDAY, April 14.

Breach of Privilege.

The SPEAKER laid before the House the following letter from the honorable WILLIAM STANBERRY, a member of the House from the State of Ohio:

To the honorable ANDREW STEVENSON,
Speaker of the House of Representatives:

SIR: I was waylaid in the street, near to my boarding-house, last night, about eight o'clock, and attacked, knocked down by a bludgeon, and severely bruised and wounded by Samuel Houston, late of Tennessee, for words spoken in my place in the House of Representatives; by reason of which, I am confined to my bed, and unable to discharge my duties in the House, and attend to the interests of my constituents. I communicate this information to you, and request that you will lay it before the House.

Very respectfully, yours,
WILLIAM STANBERRY,
Member of the H. of R. from Ohio.

April 14, 1832.

Mr. VANCE, thereupon, offered the following resolution:

Resolved, That the Speaker do issue his warrant, directed to the Sergeant-at-Arms attending to the House, commanding him to take in custody, wherever to be found, the body of Samuel Houston, and the same in his custody to keep, subject to the further order and discretion of the House.

Mr. V. quoted, in support of his motion, two precedents, one in 1795, in the case of Randall and Whitney, two land speculators, who had proposed a bribe, in lands or money, to two members of the House, on condition of the passage of a certain bill, which proposal the members had laid before the House as the basis of a motion similar to that which he had now made. The other case was that of John Anderson, which, he presumed, would be recollected by many of those now present. In both cases a breach of privilege had been alleged to have been committed, by an attempt to bribe members of the House. Mr. V. had not been able to find any case in precedent of a personal assault for words spoken in debate; but, believing it to be at least as great a violation of the privileges of the House to assault a member in the public streets for what he had uttered in debate, as to offer him a bribe with a view to carry a desired measure through the House, he had thought it proper to follow the precedent, and had therefore put his resolution in the same words which had been employed on those occasions.

Mr. POLK said that it occurred to him that such a resolution as this required some consideration. On hearing, this morning, just before he came to the House, of the occurrence referred to in the letter just laid before the House by the Speaker, and on hearing, also, that the subject would probably, in some shape or other, be brought to the notice of the House this morning, he had supposed that the utmost extent to which any gentleman would think of going, under the circumstances, would be to propose an inquiry by a committee. The resolution assumed the fact that a contempt on the House had been committed, and that the House possessed the power to punish it. Every gentleman must be aware that a great difference of opinion always had existed as to the power of that House to punish as a contempt any act which did not interrupt or impede the business of the House. Yet, what did this resolution propose? It not only asserted the doctrine that the House might punish an act not committed in its presence, or interrupting its proceedings, but it is proposed that, without further inquiry, they should deprive a citizen of his liberty, and direct their Sergeant-at-Arms to seize and to hold him in custody. Mr. P. did not admit that the House possessed any such power; and he believed that a great majority of that House, upon a deliberate and full examination of the question, would hold the same sentiments with himself.

Mr. JENIFER, of Maryland, called for the reading of the letter of Mr. STANBERRY, and the resolution of Mr. VANCE; and they were again read at the Clerk's table.

Mr. J. then observed that he had not supposed it possible that a single voice could have been raised in that House, or in the country, against the exercise of a power which must be dictated by common sense. Mr. J. held that the constitution imperatively called upon them, as representatives of the people to protect themselves in the exercise of their duty. It expressly declared that no member might be brought into question elsewhere for words spoken in that House. Now, he would like to know whether, in the present case, there had not been an attempt not only to question the words of the member assaulted, but to arrest his further progress—not only to question the manner in which he had exercised his privilege, but to deprive him altogether of the power of exercising it. A member of that House had stated to the Speaker—what? a surmise? a doubt? No.

Mr. SPEIGHT, of North Carolina, moved to amend the resolution by striking out all after the word "Resolved," and inserting the following:

"That a Select Committee be appointed, to whom shall be referred the communication of the honorable WILLIAM STANBERRY, a member of this House from the State of Ohio, in relation to an assault committed on him by Samuel Hquston, with power to take such steps as will ensure a thorough investigation of the transaction."

Mr. DODDRIDGE called for the reading of the case of Anderson, which had been referred to, and the Clerk, thereupon, read an extract from the journals of the House containing its proceedings in that case.

Mr. COULTER, of Pennsylvania, said: If they were to go into a tedious examination of witnesses before a committee, they might as well turn over their injured fellow-member to the courts of the District. The preservation of that House was not to wait the slow forms of justice; and therefore the power was given to it to supersede those forms, and to act at once where its safety was threatened. But if a member, whose person had been assailed in the public streets for words uttered in debate, was to be thrown off to a distance till reports of committees were prepared and debated, they might as well leave him to bring his complaint before the court of the District, and thus subject the privileges of that House—of that House did he say? —no, the privileges and rights of the people of the United States, to the determinations and award of the court which sat in a neighboring building. He said the privileges of the American people; for this was not a question as to the privileges of the member from Ohio; it touched the privileges of the people of Ohio. Should the House deny the process asked by the resolution, and refuse to exercise the power which even the gentleman from Tennessee himself admitted it to possess, (for he had stated the case wherein it might be exercised,) they would not cast a slight upon the gentleman from Ohio. They would do him no injury, for he possessed a spirit which would raise him above the indignity he had received; but they would inflict a blow upon the people whose representative he was, and for the preservation and vindication of whose rights the power to punish had been vested in that House.

Mr. DRAYTON said: The question divided itself into two inquiries. First, whether the House had the power to act under the resolution; and, secondly, if it had, in what manner the resolution was to be executed.

Mr. D. desired, in the outset, that the House should be deeply impressed with the sentiment that when once the day should arrive when freedom of discussion in that Hall should be restrained, the pillars of the constitution would totter, and the fair temple of our liberties must speedily fall. And would any man tell him that the freedom of debate could be preserved if a member of that House, for words spoken in his place as a representative of the people, was to suffer personal violence? Should such a principle receive the sanction of the House, an individual, for doing what he conceived to be his duty to the country, might not only suffer personal violence, but be put to death with impunity, so far as the House was concerned. If the House had no power to punish in the case of an assault, it had no power to punish in a case of murder. To preserve, then, a right so sacred as the right of debate, ought not some power to be given? Was the right of punishing such outrages to be a mere barren right? an abstraction? existing in the *lex parliamentaria* alone, and never to be acted on? If the right existed, it must be acted on, or it would become a mockery. In this case, an assault had been committed for words uttered by a member of that House, in his place. Mr. D. begged that it might be distinctly understood that in this matter he was not governed by any party or personal considerations. He did not for a moment consider to what political party the gentleman from Ohio belonged. He looked only to the protection of the House in those rights, without which there could exist no such thing as a republican assembly; he looked only to the consequences which must ensue, should such an outrage be passed over without the solemn action of that House. As to the particular individuals concerned, they were totally out of the question with him. Had they been Mr. D.'s personal or political friends, the question would not be in the least altered; his mind was directed to the stability and integrity of our republic, and at what might be the issue of such a state of things should an attack like this upon the privileges of that body be lightly passed over.

It did appear to that House that the gentleman from Ohio had been attacked and maltreated for words spoken by him on that floor. If the House had any power, under any circumstances, to punish for a contempt, and this was not one of those cases, then such a case never could occur, and the power could not be called into exertion in any case whatever. That which appeared to be the popular principle, as urged in the debate, would, on investigation, prove to be not the popular, but, in reality, the monarchial principle. The true popular principle was the preservation of the powers of that House. What did the House consist of? The representatives of the people. And what were its rights and its privileges? They were the rights and the prerogatives of the people.

No greater power existed in a convention than pertained to that House under similar circumstances. Could there be any question, whether, if a convention of the people themselves was assembled, and one of its members should be maltreated, as a member of this House had now been, that there would not be a power in that body to prevent the repetition of the outrage? If not, how was a constitution ever to be formed? or how could it be amend-

the club itself should be exhibited. The House have seen it; and I could not help remembering, on seeing an honorable gentleman measuring it, and comparing it with his finger, the venerable judge who is said to have presented his thumb to show the dimensions of the stick with which, in those strange old times, the law allowed a man to chastise his wife. Whether previous impressions have been made to the disadvantage of the accused, I will hope, have been already removed by the evidence, and shall proceed to consider what is the charge against him, what is the law, and what are the facts to condemn him. For any distinct charge against him, I have looked in vain through all these proceedings. The warrant states no cause, and the resolution ordering it is equally indefinite. In the course of proceeding marked out by the committee, and adopted by the House, he is called to answer questions, but uninformed as to his offence. Even now, when I am called upon for his defence, I am put to conjecture what charge I am to defend him against. The principal charge, I suppose, is the violation of a member's privilege by an assault for words spoken in debate. But I have been obliged to see, in the course of the inquiry, two other charges showing occasionally their little heads under these proceedings. Of these, of course, I must say a few words.

The complaint of the member assaulted, and some parts of his evidence, seem to put the breach of privilege upon the circumstance of his being prevented, by the consequences of the assault, from attending to his duties in the House. It may be urged, therefore, that his offence consists in his having thus obstructed a member in the discharge of his duty. I will only say to this, that such a doctrine would be making criminal, not the act, nor the intent with which it was committed, but the consequences following it; so that whether the assault was punishable here, would depend entirely upon its violation. If it prevented the member's attendance upon the House, it would be a contempt; otherwise, not.

This doctrine also would make any other act, if it prevented the member's attendance, a contempt; and this might be done by a threat—nay, by an act of courtesy.

It would also appear from one of the questions proposed and one of the answers of the witness, and the correction afterwards made of it, that it may be supposed the offence consists in the assault's being made on the member when on his way to make inquiries of what had been said of him in the House; that this was official business; and that it is a breach of privilege to assault a member when engaged on official duty.

I need only to say that, if such is the law of contempts, and such a business is official and within the protection of privilege, it is difficult to conceive what a member may do that would not be covered by privilege. It is said it was necessary for him to know what was done in the House, in order to enable him to discharge his duty, and that in going to make such inquiry it was necessary he should be protected. So it is necessary, to enable him to discharge his duty here, that he should take rest and refreshment; and this would make privilege a shield by day and night, and a member could at no time or place get from under it. I may also remind the House that the member himself, on this occasion, (and he surely was the best judge,) was of opinion that the visit he was paying when assaulted, was not an official act; for when asked if he was then engaged in any official duty, his reply was in the negative, though he seemed afterwards inclined to think that it was such an act as privilege might be stretched to cover. I cannot think it necessary to say more as to these charges, if indeed any such should be urged. And that to which I presume the House chiefly looks, and which alone I shall consider, is this—an assault committed on a member for words spoken in debate. Has this House power to try and punish such an act? Are there facts proved, to show such an act committed? And first as to the law, has this House the power to try and punish an assault committed on a member, out of the House and not during its session, for words spoken in debate? To what extent this House has the power of proceeding for contempts, may be a question of difficulty; all I need do, and all I mean to do, is to show that they have not the power to the extent I have just stated.

It has been gravely questioned whether it has the power to any extent; whether it can even punish a contempt committed in its presence.

This I shall not discuss, but take it for granted that, to that extent, it may be necessary, and therefore proper, to prevent interruptions to its deliberations by confining such offenders.

Let it not be said that, if the power be admitted as to offences committed in the presence and to the interruption of the House, such admission proves the possession of the power, and that it can only be limited by the discretion of the House.

There is just reason and high authority for such a distinction for limiting it to acts of interruption, and denying it beyond those limits.

It is obvious that there may be a necessity for the power in such cases, that cannot exist in others where there is no interruption. The House may also exercise it over acts committed in its presence, and as to which it can judge immediately with far more ease than over acts committed at a distance, requiring the proof of witnesses, and such investigations of disputed facts as must prevent its discharge of the more important and urgent duties of legislation.

Further, some limitation of the power, it must be allowed, is possible and proper; and if it is not confined to immediate acts of interruption, it will be difficult, if not impossible, to prescribe any other limit.

In England, the two Houses of Parliament held it as an unlimited, undefinable, and exclusive power, and they have used it (as such power will ever be used) to oppress the people and disgrace themselves. They have forced the courts to sanction it, threatening, seizing, and imprisoning the judges, till they agreed to leave the law of Parliament to the Parliament, and determined to be utterly ignorant upon the subject. By this efficacious mode of teaching, the English judges have become enlightened into a state of total darkness as to the doctrine of contempts; and the victims of parliamentary persecution, who appealed to them, were sent back to their imprisonment, the judges declining to look into the offences for which they were committed, declaring that it was unnecessary for them to inquire into the nature of the contempt, because it belonged to the *lex parliamentaria*, and they could not understand it. Such was the case of Alexander Murray, in 1 Wil. (p. 299,) and such the opinion of all the judges. This man was a close prisoner of the House of Commons, for a contempt. He was denied pen, ink, and paper, and all intercourse with his friends. His health was suffering from his confinement, and a physician was not allowed to visit him, but upon the special order of the House. He was brought before the court by *ha. cor.* It was urged for him that a British subject could not be suffered to perish in imprisonment, without a trial, or inquiry into the offence for which he was committed. It was determined to be out of the power of the court to interfere, and he was sent back to his confinement.

I have not referred to this case on account of its peculiar enormity. Many others, of far greater oppression, might have been adduced. But it is cited in a more recent case, that of Sir Francis Burdett, in 14th East, by Lord Ellenborough, and mentioned, "with a slight qualification of an expression from one of the judges, with approbation." In this case also it is acknowledged that there had been an English judge, (and that judge was Lord Holt,) independent enough to declare his opinion of parliamentary privilege, and to limit its power to offences committed in the presence of the House. His views of this doctrine may be also seen in 2d Ld. Ray. 938—1st ditto, 10—and a note to the latter case shows the means used to teach him to think more reverently of parliamentary privileges.

There is a judicial decision of the highest court of our own country, going thus far, and no farther. The constitution of Maryland (12 sec.) also thus limits the privileges of their legislative bodies, and I have been unable to find, in any State, a prosecution like the present. It cannot, therefore, I think, be argued that there is any inconsistency in admitting the power within the limits I have stated, and denying it beyond them. I proceed then to inquire where this House got the power, whatever it may be, which it asserts in the present proceedings. If we can ascertain this, it may serve to show us, if not what the power is, yet, at least, what it is not.

If I am told that it is an inherent incidental power, taken *ex necessitate*, at the moment of its creation, alike in origin and extent to that of the British House of Commons, I answer, first, that it is not claimed to have been so taken by the British Parliament. It is claimed there, on the ground of grant, by prescription, by immemorial usage. If we consult Blackstone, Coke, Holt's law of libel, and Lord Ellenborough in the case of Sir F. Burdett, we find various origins resorted to, but none of them say the Parliament took it, as inherent, *ex necessitate*. They conjecture that some old statute, now lost, gave the power. Lord Ellenborough quotes several ancient statutes which recognize, as he contends, the exercise of the power.

This House, therefore, cannot borrow an origin *ex necessitate* from the British Parliament, for they disclaim such an origin, and labor hard to find a better.

I answer, secondly, that if this House could thus get an origin for the power, they could not claim it to the extent in which it is held by the British Parliament; for the extent to which it could be claimed would be limited by the necessity requiring them to take it, and the British Parliament, having carried it (as all must confess they have) far beyond that necessity, is an abuse: and if we could plead their example for taking the power, we surely should not for the abuse of it. It is plain that we cannot derive the power, as the British Parliament does. We can have no immemorial usage, no real or supposed ancient grant, no lost records.

This House derives its existence and all its powers, whatever they may be called, from the constitution. From the words of that instrument, or by inference from a fair construction, all its powers must be derived. It is declared by the Supreme Court, (4 Cranch, 93,) that as the courts are created by a written instrument, the constitution, all their powers must be derived from that source. The same principle applies to this House.

The constitution then is the source to which the power must be traced.

In express words it is nowhere given; many powers, and such as would be inherent, incidental, and necessary, (if any could,) are given by express words; but this is not.

If it is got, therefore, from whatever part of the constitution, it must be got by a necessary and proper implication. I lay down then these four propositions:

1st. The power must appear to be necessary and proper to this House, to enable it to discharge its constitutional functions.

2d. It must not be inconsistent with other powers expressly given to other departments of the Government.

3d. It must not clash with the express prohibitions of the constitution.

4th. It must be exercised only in the way prescribed by the constitution.

As to the first—is this power as now claimed a necessary and proper one for this House? I shall contend that it is neither.

Is it necessary?—what does that term denote? what is the degree of necessity required? I know that in the case of Maryland against McCullough, in 4th Wheaton, it is decided by the Supreme Court that any degree of necessity gives Congress the power to legislate. This principle, however, is confined to legislative acts, done in the ordinary and necessary sphere of duty. The grant of judicial power, the power to punish, would require a more strict construction. And as the House, in assuming this judicial power, acts upon its mere discretion, and is under no obligation to assume it, and it is moreover a dangerous power, very liable to abuse, it ought to be made to show for itself a plainer and greater necessity. Such seems to have been the very just view of the nature and extent of the required necessity taken by an able and learned committee of this House in the case of Russel Jarvis; they say it is a dangerous power, liable to abuse, and that the House should only exercise it "in cases of strong necessity."

The inquiry then is, is there a strong necessity, or any necessity, for such interference of this House in a case like the present—where the wrong over which it assumes jurisdiction has been committed not in its presence, nor to the interruption of its deliberations?

The question is not whether it is necessary such an offence should be punished, but whether it is necessary that this House should lay aside its legislative duties, to try and punish it.

It is no reason, therefore, to say that the House must be protected from an interruption that may be continued or repeated, because there is no interruption. Nor, that such offence should be punished here to prevent its repetition, if there are other tribunals whose duty it is to try and punish such offences. Now, that our courts are competent to try all such offences as the present, and consider the causes and circumstances of every assault, and punish it accordingly, cannot be doubted—and the presumption certainly is that all courts and officers will do their duty; if so, the act will receive its proper punishment without the interference of this House; and it cannot, therefore, be necessary it should interfere: on the contrary, when we consider what other things this House has to do, the necessity seems to be that they should not do that which must prevent their doing what it is necessary they should do.

It may further be said that even if the courts had not sufficient power, or were not sufficiently bound to try or punish such offences, Congress can make them so, and therefore are under no necessity to assume the jurisdiction themselves.

Neither is it proper. It can never be proper, that a party prosecuting for offences against itself shall be the judges to try and punish. This House charges a man with an offence; the members are the prosecutors; they produce the evidence, argue the cause against the prisoner, and then decide whether he or they are right in the argument. The prisoner is allowed counsel, but the privilege of arguing with his judges, and refuting their arguments, will generally be of little use to him. It would be hard enough to have such fearful odds against him in numbers and talents, as opposing advocates; but after such an encounter, to have to look to the same persons for judgment, would present almost a hopeless prospect.

The counsel, in such an encounter, might possibly also meet some things still more fearful than superior numbers and talents. There may hereafter be, upon a bench of two hundred and fifty judges, (of which this House will consist,) such a thing as a captious, impatient judge. He may think some of the questions or arguments of the counsel (particularly if they bear hard upon the view he may wish taken of the case) "trifling," and he may be, as such judges generally are, armed with the most withering powers of rebuke and invective; and he may be provoked to make the counsel feel, for such an offence, all the thunder and lightning of judicial ire. It is true that the inferiority of the counsel, his humble and unprivileged condition, as a permitted guest in this great Hall, would generally protect him from being thus assailed and disabled; but these circumstances, effectually as they would appeal to the magnanimity of the high and the privileged, might possibly be sometimes forgotten.

Under these and innumerable other obvious disadvantages, it must appear to be of small consequence to a prisoner whether he has counsel or not, before a tribunal so constituted. It is plainly acknowledged, even in England, in more modern and better times, that it is not proper that any House should redress its own wrongs. We find, in Starkie on Slander, (479,) that the House of Commons has, on several occasions of contempt, declined the jurisdiction, and requested the prosecution of the offenders before the courts. The author commends this course of the House, and quotes from the address of the Attorney General to the jury, in one of the cases, an acknowledgment of the unfitness of the House of Commons to try offences against itself, and his decided approbation of the determination he understood the House had made to send all such cases to be prosecuted by the courts.

Can it be "proper" then for this House to assume a power which, from its obvious and confessed injustice, the House of Commons is commended for renouncing?

There are many other objections to this House as an appropriate tribunal for such proceedings, which will readily occur to our minds. Has the House sufficient powers, in cases of difficulty or resistance, to bring such cases to any successful result? When the party is convicted, has the House the power to inflict an appropriate punishment? It cannot be proper or necessary

that this House should try, if it cannot adequately punish, particularly when the ordinary tribunals can do both.

The only punishment it can inflict is imprisonment, and this, according to the report in Jarvis's case, "ought never to be carried further than shall be absolutely and imperiously required by the existing emergency." In Dunn and Anderson, the Supreme Court say that the power to punish for contempts in Congress "must be the least possible power adequate to the end proposed, which is the power of imprisonment;" and further, that this "imprisonment must cease with the session."

It is plain that, with a power thus restricted, there may be very atrocious cases, where the House, after convicting, can impose no adequate punishment. Their imprisonment can never be like that of the British Commons, for it must not be made more rigid than "absolutely and imperiously required" to protect the House from the offender, it must be the exertion of "the least possible power" of restraint; and such (as I have seen) is the sort of imprisonment applied in this case, so very different from that within the four walls of the court's gaol, that, except that it may interfere with a man's business elsewhere, it would be no punishment at all. To many persons it certainly would be none to spend even the whole winter in Washington, with apartments in one of its best hotels, with the further benefit of a very courteous and agreeable gentleman as his companion.

If I am told that, notwithstanding the opinion of the committee in Jarvis's case, and of the Supreme Court in Dunn and Anderson, the House may, if they shall find that this mitigated imprisonment will not effectually restrain such offences, consider it "necessary," and will therefore have the power to increase its rigor: to this I answer that it certainly may, and if it takes this power, very probably, hereafter, will; and by the same reasoning, if imprisonment, however rigid, will not restrain offenders, any of the other punishments, taken upon the same principle, by the House of Commons, such as cutting off hands, or banishment, or even death, may be thought necessary for the protection of the House, which will still say that they are applying the "least possible power" necessary for that purpose. I do not think that, by admitting that it may come to this, it will follow that the power is a proper one.

I conclude, therefore, that it is a power neither necessary nor proper. That this House may exercise preventive justice, which can only extend to protect itself from interruptions, and can have no pretensions to the exercise of vindictive justice over cases which do not interrupt it, if they leave them to be punished elsewhere.

I, secondly, insist that the power claimed by the House is inconsistent with the powers expressly given by the constitution to other departments.

What is the nature of the power in question? Is it legislative, executive, or judicial? And if it be judicial, does not the constitution expressly vest the judicial power in the courts of the United States? Article 3, section 2. Does it not declare that "the trial of all crimes, except in cases of impeachment, shall be by jury?" (The declaration and the exception alike conclusive upon the question.)

There is no ground upon which the exception of this particular offence from the consideration of the courts can be claimed. The courts were intended to try, and are competent to try and punish all offences; and whatever power this House may assert over the act complained of in this case, there can be no doubt but that the court has power, and adequate power, to try and punish it. Are both then to try and punish the same act, the one calling it a breach of the peace, and the other a breach of privilege? And if so, which is to have the preference in this conflict of jurisdictions? Is it to depend upon the speed of their respective officers, and the offender be made first to answer where he is first caught?

Suppose, in this case, when the warrant was issued, the accused had been found by the Sergeant-at-Arms in the custody of the marshal? Could he have taken him? Could he have been brought here for trial? And is there any difference between an offender's being actually taken by the marshal, and his being liable to be taken?

And, thirdly, the power claimed is within the prohibitions of the constitution.

What are these prohibitions?

The fifth article of the amendments declares that "no person shall be held to answer for a capital or otherwise infamous crime, unless on presentment or indictment of a grand jury, &c.;" nor shall any person be subject, for the same offence, to be twice put in jeopardy, &c., "nor be deprived of life, liberty, or property, without due process of law."

What words can be more general? "No person shall be held to answer," "nor be deprived of life, liberty, or property, without due process of law." Can a man be thus held to answer here, and be here deprived of life, liberty, or property, without violating this prohibition? Is not the accused here thus "held to answer?" Is not his liberty affected by this proceeding? and is this proceeding the due course of law?

If we wanted authority in a matter so plain, we may find it in Lord Ellenborough's opinion in the case, to which I have already referred, of Sir Francis Burdett. There it was urged that these same words, found in the statute of Edward, that "no man shall be deprived of life, liberty, or property, without due process of law," prohibited the power assumed by Parliament, as it is now assumed here, of summary proceedings for contempts.

I beg this honorable House to see how his lordship answers it, and to see how impossible it is for this or any other answer to evade the force of the prohibition here.

He says that, previous to this statute, the *lex parliamentaria*, giving this power of summary proceeding, was in force, and was part of the law of the land; and that, therefore, the terms, "due process of law," applied as well to the law of Parliament as to all other law.

Now, with us, no such answer can be urged when this prohibition is objected, for when our constitution was adopted, there was no such previous law of the land, and the words, "due process of law," could only apply, as Coke considered them in the English statute, (2d Just. 50,) to trials by indictment and jury.

Look also at the provisions of the sixth article: "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury, &c.;" "and to be informed of the nature and cause of the accusation—to be confronted with the witnesses against him—to have compulsory process for obtaining witnesses in his favor—and to have the assistance of counsel for his defence."

I would ask whether any prosecution, anywhere, in which a man may be found guilty of an infamous crime, or in which his person may be imprisoned, is not "a criminal prosecution." If so, are not all these safeguards of the constitution to ensure him a fair trial secured to him? If not so, if all or any of these safeguards are no protection to a citizen accused and tried here, if he may be tried here according to the discretion of the House, without jury or accusation, or witnesses or counsel, and the constitution is no shield for him here, then have the framers of the constitution of which we boast, left in the hands of one of the departments of the Government, or rather in one branch of it, a power as boundless and dangerous as could be desired by a despot—then have they taken pains to secure the citizen from oppression, from every quarter but one. And our boast must now be, not that we have a free Government, securing the citizen from every violation of his rights, but that we have a Government, of which only one department has absolute power over our lives, liberties, and property; where only one privileged order exists, which has no limits to its power over the citizen, but its discretion.

It has been generally agreed that the sedition law was unconstitutional, because it conflicted with the prohibition to pass any law infringing the liberty of the press. Now, if Congress were to pass a law to punish contempts, or any other offence, by depriving the citizen of his liberty, by a trial here or elsewhere, without a jury, without due process of law, would not such a law equally conflict with that prohibition which guards these rights from infringement?

And if such a law would be a violation of the constitution, is not the exercise of the power without a law equally unconstitutional.

If such a law was passed, could there be a doubt of the courts of the United States deciding it to be unconstitutional and void? And yet the assumption now is, that this House can do without a law that which the whole Congress, with the sanction of the Executive, could not accomplish.

My fourth and last proposition is, that if I am wrong in all this, if it is a proper and necessary power, not inconsistent with the powers expressly granted nor contrary to the prohibitions of the constitution, still it is to be exercised only in the way prescribed, that is, by a law. The grant in the sweeping clause of the constitution intended to confer powers not enumerated, is to the Congress, not to the Houses separately. And it is a power, not to do, without a law, what they may deem necessary and proper, &c., but to "pass all laws necessary and proper," &c.

A law then must be passed, if it be deemed necessary and proper, to exercise this jurisdiction, pointing out the offence, the mode of proceeding, and the punishment. And this, sir, is reasonable as well as constitutional. Without it a man may lose his liberty for an offence which he had no means of knowing was an offence, and be exposed to a punishment of which he could never have heard till it was pronounced. If this be not tyranny, what is? If this be our condition, are we freemen?

I know that in England there have been asserters of such a power, and judges and jurists have justified it; but it cannot be expected to hold its ground there against the spirit of reform now awakened. I have referred to cases in which it is maintained. We see it defended in Blackstone, (Bl. Com. 1st vol. 164,) who considers it necessary and proper that such offences should be punished without a law defining them, because the definition would enable offenders to avoid the offences defined, and commit others. And this is the same writer who condemns the tyranny of Caligula for having his laws hung up so high that they could not be read, and then punishing those who transgressed them. If it was tyranny in him to hang up his laws thus high, what was it in the Parliament he was defending not to hang them up at all? Nay, to bury them under the piles of their musty rolls, whence they could never be dug up, or to hide them still more securely in the breast of Parliament, until they were brought out, as occasion required, for use?

Sir, the modern annotators on this author understand better the rights of the subject. At the page which I have quoted, may be seen the opinions of Christian Archbold and Chitty upon this defence of the undefined and undefinable laws of privilege—(1st Chitty's Black., p. 164.) They condemn it as unjust and oppressive, contrary to the rights of Englishmen. They declare that to punish thus for offences which no previous law had defined and denounced, is an arbitrary exercise of power; is punishment, upon the universally reprobated principle of *ex post facto*.

MONDAY, April 30.

Bank of the United States.

Mr. CLAYTON asked leave to make a report in relation to the Bank of the United States; and leave having been granted,

Mr. C., from the Committee of Visitation and Inquiry into the Affairs of the Bank of the United States, made a report, and moved that, without being read, it be committed to a Committee of the whole House on the state of the Union, and be printed.

[On this motion to print the report of the Select Investigating Committee, an animated debate sprung up, going into the merits of the question: in which *Messrs.* McDuffie, Clayton, Adams, Hubbard, Lamar, Cambreleng, Wayne, Wickliffe, Whittlesey, Thomas of Maryland, R. M. Johnson, and Watmough took part.]

The question was then put on committing and printing the report, and agreed to.

Mr. CLAY, of Alabama, asked leave to move for the printing of 10,000 copies of the report.

The request being objected to, he moved to suspend the rule to allow him to make the motion, but the House rejected the motion, (which requires a vote of two-thirds,) yeas 86, nays 84.

TUESDAY, May 1.

Revolutionary Pensions.

The House resumed the consideration of the revolutionary pension bill. The question being on the amendment of Mr. WICKLIFFE, which proposed to extend the benefits of the bill to all who were engaged in the Indian wars of the West, down to the year 1795,

Mr. BLAIR, of S. C., moved to insert a clause to include those militia who fought in the battles of King's Mountain and Guilford Court-house, in North Carolina, without proof of further service, and he demanded the yeas and nays on his motion, which, being taken, stood —yeas 46, nays 118; so the amendment was rejected.

Mr. LETCHER also renewed the amendment which he offered in committee to include those who fought in the Indian wars from 1775 to 1783; which was agreed to without a division.

The amendment of the Committee of the Whole, to include those militia in the *pro rata* allowance who served three months, was concurred in by yeas and nays—98 to 73.

Mr. DAVIS, of Massachusetts, moved the previous question, which was carried—yeas 91, nays 60.

The main question was then put, and the bill ordered to be engrossed, and read a third time —yeas 125, nays 50.

WEDNESDAY, May 2.

Revolutionary Pension Bill.

The bill to enlarge the revolutionary pension bill was read a third time.

Mr. WILDE being about to vote in a manner different from what he had always formerly done, he begged to explain the grounds on which he should do so. He was decidedly in favor of the principle of the bill; nor did he much object to its extent: but he considered the time of its introduction altogether objectionable. He referred to the excited state of the public mind, and the large amount of money the bill would draw from the Treasury; and said that while the dark and portentous cloud of the tariff discussion yet hung over the country, he should be destitute of all claims to patriotic feeling if he should consent to pass this bill until the other most perplexing subject should first have been disposed of. Not believing that there would, after that, remain time to resume the present bill with any other hope of its passage, he concluded by moving that the further consideration of the bill be indefinitely postponed.

On that question the yeas and nays were ordered, and, being taken, stood—yeas 45, nays 128.

The yeas and nays were then ordered on the passage of the bill, and, being taken, stood as follows:

YEAS.—Messrs. Adams, Allison, Anderson, Angel, Appleton, Arnold, Ashley, Banks, N. Barber, Barringer, Barstow, Isaac C. Bates, James Bates, Beardsley, Bethune, Boon, Bouck, Briggs, John Brodhead, John C. Brodhead, Bucher, Bullard, Burges, Cahoun, Cambreleng, Carr, Collier, Lewis Condict, Silas Condit, Eleutheros Cooke, Bates Cooke, Cooper, Corwin, Coulter, Crane, Crawford, Creighton, Daniel, John Davis, Dayan, Denny, Dewart, Dickson, Doddridge, Doubleday, Duncan, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Fitzgerald, Ford, Gaither, Gilmore, Grennell, Hammons, Harper, Hawes, Heister, Hodges, Hogan, Holland, Horn, Hubbard, Hughes, Huntington, Ihrie, Ingersoll, Jarvis, Jewett, Richard M. Johnson, Kavanagh, Kendall, Kennon, Adam King, John King, Kerr, Leavitt, Lecompte, Letcher, Lyon, Mann, Marshall, Maxwell, McCarty, Robert McCoy, McIntire, McKennan, Mercer, Milligan, George E. Mitchell, Muhlenberg, Newton, Pearce, Pierson, Pitcher, Potts, Randolph, John Reed, E. C. Reed, Semmes, Slade, Smith, Soule, Southard, Spence, Stephens, Stewart, Sutherland, Taylor, Philemon Thomas, John Thomson, Tracy, Verplanck, Wardwell, Washington, Watmough, Weeks, Wheeler, Elisha Whittlesey, Frederick Whittlesey, Edward D. White, Wickliffe, Williams, Young—126.

NAYS.—Messrs. Alexander, Robert Allen, Archer, Barnwell, Bell, James Blair, John Blair, Bouldin, Chinn, Claiborne, Clay, Clayton, Coke, Conner, Craig, Davenport, Warren R. Davis, Drayton, Felder, Foster, Gordon, Griffin, T. H. Hall, W. Hall, Hawkins, Irvin, Charles C. Johnston, Lamar, Lewis, Mardis, Mason, McDuffie, McKay, Newnan,

Nuckolls, Patton, Plummer, Polk, Roane, Russel, Speight, Stanberry, Standifer, Francis Thomas, Wiley Thompson, Vance, Wayne, Worthington—48.

So the bill was passed, and ordered to be sent to the Senate for concurrence.

MONDAY, May 7.

Post Office Contracts, &c.

The following resolution, offered some days ago by Mr. EVERETT, came up:

Resolved, That the Postmaster General be directed to transmit to this House a copy of the contracts lately made by him with True and Greene, and Hill and Barton, for printing Post Office blanks; and also a copy of the contract made with Simeon Ide, for the same purpose, in 1827; and also to state whether proposals were published for said contracts, and the amount paid under said contracts.

Mr. BLAIR, of South Carolina, moved to lay the resolution on the table.

Mr. EVERETT, of Vermont, rose to state the grounds on which he had offered the resolution. In 1827, the contract for printing Post Office blanks was given to the lowest bidder. On proposals published by the department, in the early part of the session, his attention was called to the subject by a letter from one of his constituents, requesting him to ascertain when the proposals for the contract for the ensuing four years would be published; and that, on application to the department, he was informed that contracts had already been made with Hill and Barton, and True and Greene. Of the nature of that contract, whether beneficial or not, he was not informed. He was advised that proposals had been made to the department at lower rates than the former contracts. That when the department thought proper to change the mode of making a contract of this magnitude, it was proper the House should know it; and if any evil had resulted from it, it might be provided against by legislation.

Mr SPEIGHT suggested that the gentleman might accomplish his object by simply requiring the Postmaster General to state whether the practice of the department at present was different from what it had been formerly. The call in its present shape must produce a very voluminous report, which, in his opinion, was wholly unnecessary.

Mr. R. M. JOHNSON said that it was proper for him to state that the practice of the department had been perfectly uniform on the subject of these contracts. There was no law requiring them to be given to the lowest bidder. The usual mode had been for the department to fix the price of the supplies it needed; and to avoid the delay and trouble of carrying them from one part of the country to another, the contracts were parcelled out in different parts of the Union. Mr. J. said he had no objection to the inquiry proposed, except on account of the unnecessary labor to which it would put the department. It was extremely inconvenient to have the clerks taken from the regular course of their occupations to answer calls of this kind, which, after great time and trouble had been spent upon them, for the most part issued in nothing.

In reply to the gentleman from North Carolina, (Mr. SPEIGHT,) and from Kentucky, (Mr. JOHNSON,) Mr. EVERETT stated that the reply of the department could not require much time, all the papers called for being merely copies of the contracts, the offers of individuals, and a statement of the quantity of papers, &c., paid for. That though it was true there was no law directing the department to advertise for the contract, yet the gentleman was mistaken in supposing it had been the practice of that department to make private contracts for their printing. That, in 1827, the department did advertise: how the practice had been before that time, he was not informed.

Mr. WHITTLESEY was in favor of the resolution, but he wished a much more extended inquiry gone into in reference to the affairs of that department of the Government. Gentlemen who support the Administration had made the most frank and liberal professions (and none could be more rejoiced at witnessing them than himself) that they were ready and willing to go into such an inquiry, if any gentleman would rise in his place and say that he had reason to believe that there was mismanagement in any part of the affairs of the Government. Mr. W. said he was one who did believe, and had long been under the belief, that very gross mismanagement did exist in the Post Office Department; and he was desirous of availing himself of the frank offers that had been made to introduce the resolution he had offered, proposing a more extended inquiry than that contained in the resolution just offered by the gentleman from Vermont; and he hoped that the honorable gentleman from Kentucky, (Mr. JOHNSON,) at the head of the Post Office Committee, with whose liberality of conduct and feeling every one was acquainted, would extend the same indulgence to an inquiry of this kind, which he had done in so prompt and ample a manner on a late occasion. [When on the Bank Committee.]

As to the labor that might be necessary to answer the call, he considered that a matter of very small comparative importance. If the affairs of the department were going wrong, the House ought to know it; but if they were all conducted with fairness and propriety, the inquiry would afford an opportunity for making that fact known to the House and to the nation. He then moved to strike out the whole of the motion now before the House, and insert a proposition for the appointment of a committee to examine the present condition of the Post Office Department, &c. &c., with power to send for persons and papers

Mr. CRAWFORD said that the amendment struck him as of a most extraordinary character. A proposition had been offered by the gentleman from Vermont to inquire into a single contract—an inquiry into which he presumed no one would make any opposition; and now to such a resolution the gentleman wished to append an amendment, going to propose an inquiry into the whole administration of the Post Office Department, and this without the allegation of a single fact. Only on the belief of the gentleman from Ohio, the House was called to cast a shade over the reputation of one of the best officers that ever existed in any Government. The gentleman would probably say that such was not his intention in offering the amendment, but Mr. C. knew too well that an inquiry of this kind could be wielded with some effect at the approaching election; and if it should be gone into, he would venture to predict that it would be so used. Why were committees of investigation ever appointed? It was only when some disease was believed to lurk beneath the surface which required to be probed to the bottom. But would that House institute a Committee of Investigation without any charge being first made? On what should such an investigation be based? It should always be preceded by the allegation of some specific fact of malversation. If Mr. C. should see that, he pledged himself to vote for the inquiry; but he could not consent that the money of the people should be consumed on such an investigation, without some distinct ground to believe that something was wrong. Besides, at this late stage of the session, could the gentleman believe that such an investigation, if gone into, could possibly be completed? Did he remember that they were within four weeks of the usual termination of the session? The gentleman said that the grounds of his amendment had long been in his mind; if so, why did he not sooner bring them forward? Believing that no good could grow out of the proposed inquiry, and that the officers of the Government had some character to be preserved, he should vote against the amendment.

Mr. R. M. JOHNSON had not expected such a substitute to be offered by any member of the House, certainly not by a gentleman who, like himself, was entitled to be called a working member; a gentleman, too, who had told him in conversation, and had told the House in debate, that it was not worth while to call up any more of those useful bills for private relief, of which not less than three hundred remained still unacted upon. Though the honorable gentleman had labored in the preparation of those bills, still it was now so late in the session that the gentleman had abandoned them in despair. Now, however, the gentleman seemed to wish to get up a dust. The House, he presumed, had not dust enough already. There were not enough of exciting subjects before it. The Bank of the United States—the trial which was shortly to be resumed—the tariff—the apportionment bill—the bill for interval improvements—all these were not sufficient. The gentleman wanted a committee got up, who should inquire into matters and things in general, although a similar committee, appointed by another branch of the Legislature, had given up the case in despair, after getting pretty near a cart-load of documents. Mr. J. said he felt, and always showed so much respect for the very worthy gentleman as the chairman of one of the working committees of the House, and for the committee over which he presided, that he really thought the honorable member might show some little respect, in return, to him, and to the Post Office Committee. The gentleman seemed to wish to razee him; but how would he look when he was razeed, and set to act as a lieutenant only in a committee that was inquiring into the affairs of the Post Office, with his honorable friend at the head of it as the chairman? He would, however, make a proposal to the gentleman. If the worthy member would postpone his inquiry to the first week of the next session, Mr. J. would consent to be his lieutenant, and then they would see which would outdo the other as a working man in prosecuting the inquiry to its consummation.

Case of Samuel Houston—Mr. Houston's Defence.

The hour of twelve, appointed for a further hearing of the case of Samuel Houston for an alleged breach of privilege, having arrived, the accused was brought to the bar; when he rose, and addressed the House in his own defence as follows:

Mr. Speaker: Arraigned for the first time in my life, on a charge of violating the laws of my country, I feel all that embarrassment which my peculiar situation is calculated to inspire. Though I have been defended by able and enlightened counsel, possessing intellect of the very highest order, embellished, too, by all that science and literature can bestow, yet it seems proper that, under such circumstances, I should be heard in my own vindication.

The charge which has been preferred against me is one of no ordinary character. If I shall be convicted of having acted from the motive alleged by my accuser, lasting infamy must be the necessary consequence.

To my apprehension, the darkest dungeons of this Government, with all the pains and penalties of treason, present a trifling consideration when compared with that load of infamy which, under such circumstances, must attach itself forever to my name.

What is the nature of the charge? I am accused of lying in wait, for the purpose of depriving a fellow-man of the efficient use of his person, if not of existence itself. Sir, can there be a greater crime? Who, but a wretch unworthy of the name of man, could ever be guilty of it? I disclaim, utterly, every motive unworthy of an honorable man. If, when

deeply wronged, I have followed the generous impulse of my heart, and have thus violated the laws of my country, or trespassed on the prerogatives of this honorable body, I am willing to be held to my responsibility for so doing. No man has more respect for this body, and its rights and privileges. Never can I forget the associations connected with this Hall. Never can I lose the remembrance of that pride of heart which swelled my bosom when finding myself, for the first time, enjoying those privileges, and exercising those rights, as one of the representatives of the American people. Whatever may have been the political collision in which I was occasionally involved, whatever diversity of feelings may have for a moment separated me from some of my associates, they have never been able to take away that respect, for the collective body which I have ever proudly cherished. The personal associations I have enjoyed with many of those I now see around me, I shall ever remember with the kindest feelings. None of these things, however, are to operate as the smallest extenuation of my offence that shall be proved against me. All I demand is, that my actions may be pursued to the motives which gave them birth. Though it may have been alleged that I am "a man of broken fortune and blasted reputation," I never can forget that reputation, however limited, is the high boon of heaven. Perhaps the circumstances of adversity, by which I have been crushed, have made me cling to the little remains of it which I still possess, and to cherish them with the greater fondness.

Though the ploughshare of ruin has been driving over me, and laid waste my brightest hopes, yet I am proud to think that, under all circumstances, I have endeavored to sustain the laws of my country, and to support her institutions. Whatever may be the opinions of gentlemen in relation to these matters, I am here to be tried for a substantive offence, disconnected entirely with my former life or circumstances. I have only to say to those who rebuke me, at the time when they see adversity sorely pressing upon me, for myself

> "I seek no sympathies nor need:
> The thorns which I have reaped are of the tree
> I planted; they have torn me, and I bleed."

In support of the charge on which I am here arraigned, I ask, what facts have been adduced to prove either my motive or my course of action? I am well aware that this honorable body, in the incipient stages of this prosecution, acted under the allegation that I had been guilty of a very great outrage—that I had been lying in wait, and had been guilty of an attack upon an unarmed and helpless man.

Sir, had I contemplated any such attack, I should have been prepared for the purpose. Had I thought it possible that, in walking on that avenue, I was to meet an individual who had aught against me, and was disposed to redress the wrong by a personal rencontre, should I have been found in the circumstances in which I was? Was I armed? Was I lying in wait? What says the testimony? My meeting with the member from Ohio was perfectly accidental. We came together wholly unexpectedly on my part, and under circumstances of provocation, such as I am well persuaded no member of this body would ever brook. Did I attack him without previous challenge? No. Did I not apprise him that I was the individual he had injured? He had ample time to place his hand upon his arms, which he did! I was unarmed. Sir, has this the semblance of assassination? However culpable my conduct may, by some, be considered, the crime of lying in wait had its existence only in the imagination of my accuser. The honorable Senator from Missouri (Mr. BUCKNER) has testified to the House that I was not apprised beforehand of any such meeting—that it was purely accidental, and wholly unexpected—that the action took place under a heated state of feeling, and was prompted by his arraigning me, before this honorable body, and his subsequent outrages upon my feelings and character!

It has been said by my accuser that the attack made upon him was for words uttered in his place. It is true that he had laid before the House a charge of corruption, in which my name was implicated; but it was not for the words he uttered here that I assailed him. It was for publishing in the Intelligencer libellous matter, to my injury; such as no member of this honorable court, who is conscious of the rights of an American citizen, would ever tamely submit to. It was for a false and libellous matter, published "in anticipation of its regular place" in the debates of this House. After having been "blasted" by the stroke of adversity, and hunted from society as an outlaw, to be now libelled for corruption and charged with fraud upon the Government, is too much to endure! Could the human mind brook it? Could I submit to this, I should indeed think that I was a man not only of "broken fortune," but of "blasted reputation." It is well known that a private citizen has no opportunity of reply to an attack that may be made upon him on this floor. It was for the publication of such an attack—for the publication of a charge which has here been disproven, inasmuch as no testimony has been adduced to support it. It was for this that I assailed the member; and I now assert that this charge is groundless. The proof has failed. The proof was on him. I was not called on to prove a negative, though I was prepared to do it. After an attack like this had been made on my good name, with all that respect for the privileges of this House which I have ever felt, and which arises from the conviction that they have been intrusted to it for the public good; although I considered the publication false and libellous, I was induced, by my best respect for this body, not to look upon him as a private individual who had

wronged me, but as a member of this House. I therefore addressed to him a note. It was my privilege to do so. However humble I may be, and however blasted in the estimation of some gentlemen, it was still my privilege, in common with the humblest citizen that treads American soil, to address an inquiry to the honorable member. I asked of him, respectfully, and in language to which none can object, whether that publication was his, and under what circumstances it had been made. Sir, he did not deign to reply; but, proceeding on his own assumption that I was a man of "blasted reputation," he would not condescend, nor even stoop from the lofty height of his official dignity, to notice me, a mere private individual. The terms in which he couched his refusal were of the most insulting character. He declared that I had no right, after all that he had said, to make even a request for explanation. This was assuming higher ground than that of his privilege. It is the right of all—of the lowest and the humblest—to request an explanation where they are personally concerned. But this was denied me. That universal right of petition which is guarantied by the constitution to all the people of the United States, on which right my application was based—this common, this sacred, this wise, indefeasible privilege, was refused to an American citizen. What indignation would such a refusal excite in every manly bosom? It was, in substance, saying to me, although I have injured you without provocation, and in the most public manner, you have no right to inquire any thing about it, and I shall continue to do the same thing till your reputation is completely degraded and sunk.

Of the nature of the accusation, and the manner in which he sustained it, I need not remind this honorable court. My accuser declared, in reply to the first interrogatory put to him, that it had not been his object to impute a fraud. On afterthought, however, he changed his position, and avowed his belief that I was a guilty man. Still relentless, still resolved to sacrifice his victim, he bore down upon him with all the weight of his official station. Although the individual had withdrawn himself from civilized society, still he must be pursued, and hunted, and blasted! With what? With truth? With fact? No. With surmises—with suspicions—with hearsays, and affidavits. But did these proofs, such as they were, exist at the time his accusation was made? Not at all. He made the charge on a mere vague rumor; but, as a means of inflicting a more deadly stab, he gave in the names of men who had disclaimed the truth of their own declarations—names of which I need not say much.

I am not curious to speculate much on the affidavit which has been produced to the House—a matter which, in its origin, for the honor of all concerned, had better been left to sleep in oblivion—a matter conceived in malice, matured in corruption and perjury, and introduced here in a manner most mysterious. He who made the affidavit instantly fled. I trust he may be the scapegoat who will bear the sins of his association in this transaction to the wilderness. It would be unnecessary for me to dwell longer on the subject of this affidavit—the time at which it was obtained—the circumstances which preceded, attended, and those which followed it. When the individual sought to insinuate himself into my favor, after having previously injured me, when he sought my forgiveness for past offences, I forgave him generously: and this is the requital!

Mr. Speaker, I cannot be insensible to the situation I occupy before this honorable court—a situation well calculated to inspire alarm and solicitude on my part. In the nature of the accusation, there is matter cognizable in the courts of the country. I am arraigned here for the offence of having redressed a personal wrong. I am charged with not having respected the rights of this House; yet I am not allowed the judgment of my peers. I can claim no equality with the honorable members of this House, whom I see around me. Their station has raised them far above me. I am only a private citizen. Thus situated, who are to be my judges? Those who form a party to this accusation. How unequal the contest! and how hopeless must innocence itself be, if such a court were pleased to demand a victim! I know there is no such purpose here. The honor as well as the integrity of gentlemen would withhold them from it. But, behold the influence which may be exerted against me! I see no judge upon the bench, with power to instruct the jury as to the law of the case; I see no accuser, and no accused, standing side by side before that judge! I am arraigned before a court which is standing on its own privileges—which arraigns me in its own case. And thus situated, I am tried for the commission of a most flagrant crime—for insulting the whole American people, in the person of one of the members of this body. Yet I have violated no law, I have transgressed no precept known to the people of this land. If I have violated any privilege, that privilege must be somewhere declared. If it exists at all, it lies as a little spark deeply covered; not even the smoke of it has appeared. It is a privilege which the American people do not know; and I demand, on their behalf, to know what it is. I shall bow to that privilege when it shall have been defined, and when it shall have become constitutional, by the people's acquiescence. But where there is no law, there is no transgression. I admit that the members of this House have privileges, and that their persons ought to be protected, because they represent citizens of this republic. On those privileges I should be the last to encroach. But, when a member of this House places himself out of the protection of this privilege by trespassing on my rights, I shall view him in his individual capacity, and deal with him as with

any other private man. But I will never trespass on the privileges of this House; I will never assail a member of this House, while he represents the American people; nor will I encroach on any privilege which belongs to gentlemen as such. I need not say that there exist, in this Government, three distinct co-ordinate branches. Every gentleman knows what they are. And, in respect to one of them, Congress have declared what shall, and what shall not, be considered as a contempt. They have declared that a judge shall be protected in the duties of his office; but, when he steps from the high function of administering the laws enacted by this body, and its co-ordinate branches; when he leaves the judicial seat, and lays aside the judicial robes, then his privilege ceases. If, then, we may reason from analogy, in deducing the rights of this body, it seems reasonable to suppose that they do not transcend those of a co-ordinate branch of Government; and if not, then it is idle to say that, when this body has adjourned, its members remain under the protection of their privilege, and that it goes with a member, and remains with him, while outraging the rights of citizens.

Where is the privilege? Show it to me, that I may obey the law. I am told that it is undefined and undefinable, and that it is to be regulated by your discretion alone. If such a discretion is in your hand, the power of punishment must extend to life itself, and that over a man who has not, in any way, interrupted your deliberations. If you can arrest him, you may not only fine him, and imprison him, but you may inflict upon him torture and death. Sir, tyrants have made laws, and, in enacting them, have had no regard to graduating them in proportion to the offences punishable. By one of these tyrants all offenses were made capital. Draco determined that, for a small offence, a citizen deserved death; and, as nothing more than death could be implicated for the greatest, the punishment of all crimes became equal. If this body will publish its privileges, and graduate its punishments, then we shall know what to fear, and how to avoid transgression. Caligula enacted laws: they were not for the purpose of regulating his subjects, but of entrapping them. He might as well not have exerted his legislative power, but left his action solely to the government of his wanton caprice. But he was adjudged a tyrant and a monster for punishing men for transgressing a law which they could not know. For it is the conscience and motive of men which alone give turpitude to their actions.

The ground has been assumed by some gentlemen, that, if the House neglected to punish in such a case as the present, its legislation might be exposed to danger; that companies might be organized—conspiracies formed—and mobs collected, and thus the measures of the House be effectually controlled. Sir, I must enter my protest against the application of any such argument to myself. My disposition has never been factious, my conduct obstreperous, nor my feelings malignant. It is said that honorable gentlemen must be protected. I grant it. I would fall in the first ditch when their persons were assailed. I would be the last to entrench myself behind it. I feel that, as a patriot, it would be my greatest glory to defend their privileges as sacred: but let it not be forgotten that the citizen, however obscure, and however ruined in fortune, has privileges too. It is his privilege to earn and to wear an honest name—to deserve and to enjoy a spotless reputation. This is the proudest ornament that any man can wear, and it is one that every American citizen ought to press tenderly to his heart; nor should his arm ever hang nerveless by his side when this sacred, brightest jewel is assailed. When a member of this House, entrenched in his privilege, brands a private citizen, in the face of the whole nation, as a fraudulent villain, he forgets the dignity of his station, and renders himself answerable to the party aggrieved. Are honorable gentlemen to send abroad their calumnies unquestioned? Are they to use the privilege which they have received from the citizens of this country as a means to injure the citizens? If gentlemen disregard the ordinary rules of decorum, and use, in their place, language injurious to individuals, can they expect to be protected by privileges which they have forfeited? But if honorable gentlemen will respect themselves, and will not travel out of the limits of legitimate debate, for the purpose of gratifying private pique and personal hostility, they will find a wall of fire around them for their protection. The breast of every true-hearted American will glow with zeal in their defence, and will bow to their privileges with reverential gratitude. They will be surrounded with an impenetrable bulwark, such as no armed hosts, nor the massy walls of this capitol, could ever supply. It is a moral rampart—a defence that will last while time endures. As long as members respect the rights of individuals, individuals will respect their rights; nor will they ever lose this safeguard until they shall abandon that mutual respect which the citizens of a republic owe to each other. Can gentlemen expect to enjoy particular immunities, when they cease to act according to the high station they occupy, and degrade themselves by the use of language such as it does not become the proud spirit of freemen to suffer? Let them be assured the American people will never dishonor themselves by approving the voluntary degradation of their representatives.

This honorable body claims to exercise a privilege which is undefined and incomprehensible, but gentlemen have not been able to lay their hand on any part of the constitution which authorizes their claim to such an extraordinary prerogative. The attempt to support it rests upon analogy only—an analogy connected with the powers of the star chamber, that worst excrescence of a despotic monarchy.

For centuries the citizens of England, to their lasting disgrace, cowered and were crushed beneath the political Juggernaut, the almighty and unquestionable prerogative of the king—a prerogative which claimed that the king's court existed wherever the king's person was found; and its prerogative to punish for contempts was to be exercised at his pleasure, and was an engine of cruelty and oppression. They submitted to a privilege which was every thing when it was to be exercised, and nothing when it was to be defined and investigated—a privilege which floated as a vague fancy in the imagination of a British monarch, and was carried into effect by his despotic arm; in the exercise of which the subjects of the British realm were, without law, distrained of their liberty, imprisoned, fined, pilloried, whipped, and pilloried again.

Gentlemen have admitted that the power they claimed is not found in the constitution: then where is it? There is no king here to fancy his own high prerogative. We know no royal majesty in this country, to be preserved at the expense of the rights and liberties of the citizens. On what ground, then, was the privilege placed? On necessity? the plea of all tyrants, the hackneyed engine of despotism. Who ever heard of a right higher than the constitution? All the powers of this court are derivative. They exist only as they have been defined and regulated by the people. Whatever is not so granted, is the assumption of an extraordinary prerogative. If the power is not in the constitution, then it is reserved to the people, and the assumption of it is an encroachment upon the rights of the citizens. If, however, the court shall assume this power, and the American people witnessing it shall acquiesce in the assumption, I shall bow to their will with the most reverential respect.

I trust I shall exhibit the same submission as has distinguished my conduct throughout this trial. Although the officer sent to arrest me could never have effected his purpose without raising a posse, I bowed, and ever shall bow, to the very shadow of the authority of the House, so long as my resistance could be construed into contempts of the representatives of the people of the Union.

I conceive that the House had no right to deprive me of liberty, and arraign me at its bar. I shall treat its will with profound respect; and should its will inflict upon me a heavier penalty than even the law itself would pronounce, I shall submit willingly to whatever it may adjudge.

I have lived to sustain the institutions of my country, and I will never treat either them or the functionaries of its Government with contumely. Yet it is my opinion that the right has been assumed without legitimate authority, and that the American people, when they come to look at the proceedings, and see how directly it strikes at the liberty of the citizen, will never approve of the usurpation. To tell the people that their servants, when acting in a private capacity, are protected by an undefined power, resting in the breasts of men who at once exercise the functions of accusers, witnesses, prosecutors, judges, and jurors, will excite their astonishment; and, unless I am mistaken, they will deem it an awful revelation of usurped and dangerous power.

It is certainly a matter of some magnitude that the privileges of the House, so strenuously asserted, should be defined. The power assumed by this court is a higher power than that claimed by a British Parliament. I dislike precedents where the rights of a citizen are at stake. They cannot bind as when drawn from British history, because our constitution and laws are dissimilar to those in England. The privileges of Parliament, however, are in some degree defined by the laws and precedents of that country, and if they were binding, I should yet be acquitted, even on their own ground, for the most distinguished jurists of England, men who have devoted their whole lives to the study of her constitutional laws, have expressly decided that when a libel uttered by a member of Parliament is published by him, the act of publication places him out of the protection of his privilege. In the establishment of this position I am entrenched in authorities, as distinguished and unquestionable as any that can be relied on by gentlemen on the other side. And surely it cannot possibly be supposed that this court has a right to exercise powers which the Parliament of England does not claim for its members, though they are lords and dukes. The nations of the old world are looking for your decision. A great principle is involved. The liberties of more than twelve millions of souls are at stake, and my chief regret is, that, on so weighty a subject, I am so incompetent to the task which has fallen to my lot, and that I do not possess those abilities which would enable me fully to show what blessings on the one hand, or what curses on the other, must flow from the decision to which this House shall arrive. While the people of other nations are contemplating all that is sublime and beautiful of Government, as exhibited in the American constitution; while they look to her fair plains and her fruitful valleys as a land of refuge for the oppressed, a sacred sanctuary which stands ready to receive and protect those who fly from shores polluted by the influence of despotism; while the hope of the philanthropist is full-blown, and all eyes are directed to this land as the land of human promise, shall it be told that there exists in the midst of us a privilege regulated by no law, and of so mysterious a nature that the citizen of this republic knows not when he violated it? Publish this fact among other nations, and none will think of flying to a country where even their personal liberty must depend upon caprice, and must lie at the mercy of a principle purely tyrannical—for, whether exercised by one, or many, the principle, I repeat, is tyrannical. It is capri-

cious, and, in its practical effects, may become cruel in the extreme. So long as the security of the citizen rests upon defined laws, although the punishment attached to their transgression may be very severe, still if both law and punishment are clearly laid down, and publicly known, the law may be obeyed, and the punishment avoided. But it will ever be found that men have an inherent love of liberty and an inborn sense of the value of reputation, which never can be made to yield to any authority.

"There is a bright, undying thought in man,
That bids his soul still upward look
To Fame's proud cliff;
And, longing, look
In hopes to grave his name
For after ages to admire,
And wonder how he reached
The dizzy, dangerous height,
Or where he stood, or how."

This is the spirit which animates and cheers men in pursuit of honorable achievements!

Apprehensions seem to be entertained by members of this House, lest violence should some day be employed to abridge this honorable body in the enjoyment of its rights; and precedents have been referred to to show that the deliberations of a Legislature may be controlled by armed mobs! One gentleman seemed all alive to the prospect of these dangers; and gentlemen, in the progress of my case, have talked about the Government being overthrown! They have spoken of the designs of tyrants. They have conjured up the spectre of a Chief Magistrate who may have his bullies and his myrmidons, and may employ them to carry measures in this House, by practices the most nefarious. Sir, I trust I shall never see that day arrive; and I hope that those who are much younger than I, may never witness its fearful reality. But while gentlemen seem so greatly to dread the tyranny of a single individual, and appear to consider it a matter of course that it must be some Cæsar, some Cromwell, or some Bonaparte, who is to overthrow our liberties, I must beg leave to dissent from that opinion. All history will show that no tyrant ever grasped the reins of power, till they were put into his hands by corrupt and obsequious legislative bodies. If I apprehended the subversion of our liberties, I should look not to the Executive, but to the Legislative Department.

The whole history of Greece furnished ample lessons of instruction on this subject. And when Cæsar trampled on the liberties of his country, it was because a corrupt and factious Senate had placed the sceptre in his hands, and tendered him the crown. The same thing had been done both in Rome and elsewhere; not because one man was strong enough to conquer the nation, but because the nation made their liberties a footstool—encouraged and invited him to place his feet upon their necks. Men never can be conquered so long as the spirit of liberty breathes in their bosoms; but let their Legislature once become corrupt and servile, then the freedom of the people becomes an easy prey. It is to be hoped that the frequent elections secured by our form of Government may save us from this fruitful source of ruin; but if the term of our representatives' office were for life, we would be in fearful danger of sharing the fate which has happened to all republics before us. The process is easy and natural! Laws are first enacted, which trench but a little on the people's liberties—these are suffered to pass. Then other laws are enacted, which go a little further—men begin to find that power is rallying to the strong point, from which favors are liberally dispensed. They seek those favors, and thus become gradually corrupted. The corruption which has begun at the centre, flows, by degrees, to the extremities of the State, from whence, by a natural reaction, it reflows again to the centre, and there settling, it generates a tyrant. Sir, it is thus that tyranny arises—a Senate grows corrupt like that of Rome—men become its members who look with a deep, intense burning interest to the possession of power; their constant cry is for power—give us more power—we want rank, and ribbons, and titles, and exclusive privileges! It is such men who bowed their knees to Pompey, hailed triumphant Cæsar, and tendered him the sceptre. It is true that Cæsar grasped at it; but he never could have clutched it, had there been an upright, honest Legislature, faithful to virtue and to Rome. England has had her Cromwell. But why? Because a despot had previously reigned whom conspiracy had stricken down; and because a Parliament, although the idol of the British people, had become radically corrupt, and, instead of supporting and purifying the throne, had hurled it to the ground. Cromwell's hopes were then young; he commenced with that lowliness which is ever the policy of young ambition, but soon he walked, he marched, and, in the end, seized upon a throne, not lower than that of the Autocrat of all the Russias. Never would he have been crowned Protector had not the Parliament of England been first corrupted. He reared the protectoral throne on the necks of a base and servile Parliament, who tamely brooked the indignity which dastards deserved. An honorable gentleman had alluded to the Constituent and National Assembly of France. What legislative bodies could have been more corrupt than they? If the galleries dictated the law to those bodies, why was it? Because they themselves had usurped the power they exercised—and terror struck the hearts of men who had no home, no country; for where there is no security to the citizen, there is neither home nor country. Bonaparte was used to say that it was not he who seized the thrones of Europe, but it was the people of Europe who had thrown themselves under his feet. But the fears of gentlemen are groundless. Those who crowd the lobbies of an American Legislature are too en-

lightened, too patriotic, ever to insult the members of their own House of Representatives. Let the House do its duty, within the constitution, and they will find, throughout every portion of this people, a spirit of the deepest reverence to sustain their rights. I submit, then, to this court, whether gentlemen who have presented so many hypothetical cases, and indulged so many vague fears, have not disquieted themselves in vain. Some of the gentlemen have thrown out the idea that probably they themselves might be the next victim for immolation; that some rude, ferocious bully might assault them for the remarks they had offered on the floor. If these remarks were intended to refer to me—although the gentlemen, no doubt, thought they were doing me nothing more than sheer justice, yet I can assure them that I have not merited such a reproach at their hands, and I think that the hearing of this cause, and the summing up of the evidence by my counsel, may be sufficient to prove that such fears are groundless. I have never thirsted for the blood of my fellow-man. I never have been engaged in riots, or guilty of bullying any man. I have never interrupted any officer of the Government in the discharge of his duties. I have never been the advocate of bullies, or the representative of blackguards. I never sought to inspire the fears of any one by superior physical force, nor have I ever assailed any one unless when deeply wronged. I would willingly give my life as the guaranty for the protection of the members of this House. I would be the first to protect them, the last to insult their feelings or to violate the sanctuary of their persons. It was deemed necessary to issue a summary process for my apprehension, and it was openly maintained that my conduct most richly deserved punishment. I submitted. I made no resistance to that process. I submitted, and shall ever submit, to the decisions of this House. Yet it has been deemed not sufficient to rely on the constitution, and on privileges never granted by the constitution, but even the personal feelings of members have been appealed to—the very bond of sociability has been called in aid of this attempt against the liberty of the American citizen. If it had been determined to try me for my alleged offence, why appeal to personal feeling, but to induce the House to act under the influence of partiality, and sacrifice its duty, the law, and the constitution, to merely personal considerations.

And what effect was all this to produce in our land? To distrain the American citizen of his liberty—to prostrate him by power and influence, unknown to the laws of this country.

Thus public liberty is assailed, in the person of an individual, and, in prostrating him, a principle will be destroyed, which is the great safeguard of American liberty. Sir, the time was, when the name of Roman citizen was known throughout the world as the protection of him that bore it. Italy was then the seat of liberty; there she shone like the sun in his brightness, and her rays darted themselves to the remotest ends of the earth. It was a noble example, and we should do well to profit by it. In consequence of the decision of gentlemen, the rectitude of whose motives I am far from arraigning, I am brought before you as an accused man, and placed to respond in my own behalf before this high tribunal. However novel such an attitude may be to me, it may the better be endured, since it is a great principle that I contend for. It is not my rights alone, but the rights of millions that are involved. Need I state this here? Who can be so wise to know, or who can have the same incentives to preserve the just and unalienable rights of an American citizen, as the high court I now address? American citizen! It is a sacred name! Its sanctity attaches itself alike to his person, whether he journeys over the scorching sands of Florida, or wanders in the deepest forests of our Northern frontier; throughout the republic, or in his native State; in the bosom of civilization, or in the wilderness of savage life; still he is an American citizen. I do not suspect the motives of gentlemen; I should not deserve justice at their hands if I could; I am very sure they will feel themselves elevated far above the influence of every sinister consideration. So believing, it will give me pleasure to endure their will; and I should be proud to be even their victim, rather than admit the belief that they can be actuated by any base or unworthy motive. I might refer to other matters which are on my mind, and which press for utterance. But I shall indulge in no feelings on an occasion like the present. And should any unguarded expression have fallen from me, I can assure gentlemen it has fallen without design. The members of this court must be aware that many individuals have calculated on the opportunity of humiliating me, could their measures be sanctioned by the public. But I feel proudly confident that nothing which trenches on the right that every man born in this land possesses, to a fair and open trial, can ever be sanctioned by the people. I have had the misfortune to see a witness brought here in behalf of the accused, insulted upon the stand—insulted, where he was entitled to expect protection from this House. I have further seen the counsel who conducted my defence treated with personal disrespect. A gentleman whose bland and amiable manners should at least have shielded him from every thing like rudeness or indignity. A gentleman whose intelligence raises him to a distinguished eminence in society, and the fruits of whose genius will be a proud legacy to posterity. He was entitled, as it seems to me, especially when engaged in behalf of an accused man, to respectful consideration and gentlemanly treatment. How far the course pursued towards him was of this description, I leave it for the court to decide. But this was not the only remarkable thing in the course of the present trial. In a court of justice, I had ever been taught to believe that

the person of an individual accused, whatever might have been his alleged offence, was held to be under protection; that he was shielded by the dignity and authority of the tribunal from obloquy and abuse, and protected from all violence, whether by speech or action. It is admitted that counsel may animadvert with severity upon his conduct, and enlarge upon his guilt. But there is a decorum which usually governs the style of a prosecutor, however so much heated he may be by his subject. The power of public opinion, if nothing else, is sufficient to restrain him, and to correct all impropriety of language. He has reason to fear the correction of an indignant people, whenever he is tempted to heap insult upon those in bonds. But while standing at this bar, have I not been branded with the epithet of assassin? And have I not brooked it? Will the annals of judicial proceeding exhibit another instance where such language has been permitted to be applied to an individual in custody? Yet, before the eyes of this assembly, and in the eyes of this whole nation, have I been traduced by the epithet of assassin. Sir, I trust that I need not disclaim the crime imputed in that word. I bore no dagger when I met my accuser! When that term was applied to me, in this place, and on this occasion, I do confess that I felt my spirit chafe, and feelings indignant. But so far as the muscles of my countenance were capable of suppressing every indication of such a feeling, I did suppress it. Yet I could not but think of the eloquent and impressive rebuke administered to the high priest of the Jews by the Apostle Paul, when he stood in bonds before him, and the high priest ordered him to be smote upon the mouth. "God shall smite thee, thou whited wall, for sittest thou to judge me according to the law, and commandest me to be smitten contrary to the law?" When I was on my trial at this bar, I was under the protection of this august tribunal. I had by my deportment here provoked no indignity. As an American citizen, I had a claim to that impunity from insult which is accorded to the veriest victim of malice. Yet I was stigmatized as an assassin, and I brooked it, uttering no reproach in reply. I hoped it might be a propitiation of the offence, if I had committed any against the privileges of the American people.

As for the feelings which prompted my accuser, who made use of the term, however warranted he may have supposed himself in applying it to me, I can refer him to the time, and I do it with pride, though not in the spirit of vaunting, when it was my destiny, and I felt it, I confess, a high and honorable destiny, to be the representative on this floor of American freemen.

Did the gentleman at that time see any thing in my deportment which would warrant his treating me as he has done? And I think it must be accorded to me, that when, since that time, I have been accidentally present here, my deportment has been ever respectful. It has never been my habit to retain and gratify malignant feelings; nor should I have given occasion for the present proceedings, had I not been accused, denounced, and insulted upon this floor. I do not justify my course. I have been held accountable, and I have accounted for it. But I trust this is not to be made a precedent for others. If, in what I did, I sinned against this honorable House, I was unconscious of the fact. The sin existed not in my intention; it had no place in my heart. If others now enjoying the high station I once possessed, think it becoming to assail me with contempt, ridicule, and vituperation, I trust I have the fortitude to endure it. I cannot forget that while I have my privileges, others have their privileges also, and must account for their improper exercise.

I may have erred when proceeding on the principle of other analogous cases. I objected to the judgment of a prejudiced and committed judge. If I had made an assassin-like attack upon the reputation of an accused man, I would at least have held myself aloof from the task of pronouncing judgment upon him. Sir, I feel that I never could have done it. Could I have been guilty of such an act? Could I so far have lost sight of every high object, of every noble purpose, of every sacred trust, I should have incurred a doom so degraded, that imagination itself would fail in the pursuit of my destiny, and fancy would become weary in the pursuit of a profitless journey. I should have sunken myself so low, that Archimedes himself, with all the fancied power of his levers, though employed at the task for a thousand years, could never have exalted such a spirit to the rank and circumstances of honorable men. Whatever epithets it may have pleased gentlemen to use, I acquit them of reproach. I have no epithets to return. I will not cherish for a moment an unkind feeling—no, not for "the unkindest cut of all."

Sir, even if injury has been done to the privileges of this House, which I deny, does it not become the House to consider whether, in correcting one wrong, another may not spring up of far greater and overshadowing magnitude? In the discussion which preceded my arrest, my character was gratuitously and wantonly assailed. It was suggested, as an argument for the arrest, that I had probably fled like a ruffian, a renegade, and a blackguard; and that minutes might be of vast importance.

To these gentlemen, who could advance such an opinion, I say that they knew little about me. I never avoided responsibility. I have perilled some little in the protection of American citizens, and if I, myself an American citizen, have perilled life and blood to protect the hearths of my fellow-citizens, they little know me who would imagine that I would flee from the charge of crime that was imputed to me. At all events, they will learn that for once I have not proved recreant. I have not eschewed responsibility—I have not sought refuge in flight.

Never! never! shall that brand attach itself to my name. Would it not have been strange that I should seek to dishonor my country through her representatives, when I have ever been found ready, at her call, to do and suffer in her service? Yes. And I trust that while living upon this earth, I shall ever be found ready, at her call, to vindicate the wrongs inflicted upon her in collective capacity, or upon her citizens in their personal rights, and to resent my own personal wrongs. Whatever gentlemen may have imagined, so long as that proud emblem of my country's liberties, with its stripes and its stars, (pointing to the American flag over the portrait of Lafayette,) shall wave in this Hall of American legislators, so long shall it cast its sacred protection over the personal rights of every American citizen. Sir, when you shall have destroyed the pride of American character, you will have destroyed the brightest jewel that Heaven ever made. You will have drained the purest and the holiest drop which visits the heart of your sages in council, and your heroes in the field. You will have annihilated the principle that must sustain that emblem of the nation's glory, and elevate that emblem above your own exalted seat. These massy columns, with yonder lofty dome, shall sink into one crumbling ruin. Yes, sir, though corruption may have done something, and luxury may have added her seductive powers in endangering the perpetuity of our nation's fair fame, it is these privileges which still induce every American citizen to cling to the institutions of his country, and to look to the assembled representatives of his native land as their best and only safeguard.

But, sir, so long as that flag shall bear aloft its glittering stars—bearing them amidst the din of battle, and waving them triumphantly above the storms of the ocean, so long, I trust, shall the rights of American citizens be preserved safe and unimpaired, and transmitted as a sacred legacy from one generation to another, till discord shall wreck the spheres—the grand march of time shall cease—and not one fragment of all creation be left to chafe on the bosom of eternity's waves.

When Mr. Houston had concluded,

Mr. HARPER, of New Hampshire, submitted the following resolution:

Resolved, That Samuel Houston, now in custody of the Sergeant-at-Arms, should be forthwith discharged. .

Mr. HUNTINGTON rose to offer an amendment, that all after the word Resolved be stricken out, and the following inserted:

"That Samuel Houston has been guilty of a contempt and violation of the privileges of this House.

Mr. HUNTINGTON supported his resolution by an able argument.

TUESDAY, May 8.

Case of Samuel Houston.

The House resumed the consideration of the case of Samuel Houston; the question being on the amendment offered by Mr. HUNTINGTON to the resolution of Mr. HARPER, (viz., declaring Samuel Houston guilty of a contempt and breach of the privileges of the House.)

Mr. ELLSWORTH, of Connecticut, said: It had been said that this was a question touching the rights of an American citizen; and gentlemen had even called upon the House, as though the individual at the bar was a Roman citizen. He is, said Mr. E., an American citizen, and I am prepared and disposed to secure to him all the rights which pertain to that character, and they are beyond what any Roman enjoyed; but it ought not to be forgotten that this is a question that involves the rights, not only of the accused, but of every citizen in the Union; and if the principle laid down by the gentleman from Tennessee (Mr. POLK) be correct, it is a question deeply connected with all the rights of freemen, and of free and independent debate in this House. The facts of the case are few and simple—I will not recapitulate them. That the accused has assailed a member of this House, is not denied; and that he has inflicted upon him an outrage, which threatened not only his safety, but his life, has been sufficiently established. The only question is, whether this battery was perpetrated for the cause stated by the gentleman from Ohio in his letter to the Speaker. This embraces the whole of the case. If the injury was not inflicted for that cause, then we have no jurisdiction of the matter; but if it was, then I repeat that the case involves a question of the deepest moment.

I shall not recapitulate the evidence of the fact that the assault was made for words spoken in this House. The evidence is fresh in the recollection of gentlemen, and to me is satisfactory and convincing. The letter of the accused expressly declares that this was the cause. The assertion made by him in this House, "that he would right the wrong where it was done," is to the same effect, as is likewise his whole conduct and the course of his defence. But, sir, if we were to decide that the assault was made for the publication in the National Intelligencer, and not for speaking the words, I am far from agreeing that this would alter the case. It is very true that in England a member cannot plead his privilege for publishing his speech delivered in Parliament. There it is a breach of the standing rules of the Parliament for a member or other person to publish a speech so delivered, but here it is not only permitted, but expected and called for; such is the genius of our Government and the spirit of our institutions. I am not ready to follow the English courts in this particular, nor is it necessary now to decide the question, for in my view the publication was not the cause of the assault.

The learned counsel for the accused, as well

as the learned and distinguished gentleman who has just taken his seat, (Mr. POLK,) have endeavored to maintain that this House has no right to punish an assault committed on a member for what he may have said in debate on this floor, and the proposition would not be varied should I say for the discharge of his duty in this House, for a member who speaks in this Hall rises to speak under all the obligations of his high official trust; what he says, he says in the discharge of his duty, and is the sole judge, both of the propriety of what he shall say, and when he shall say it, being, however, amenable in both respects to the judgment of this House. The question then to be settled is, whether the House has a right, under the constitution, to take cognizance of an assault committed by third parties, out of doors, on a member who rises here, and in his place, and under his official responsibilities, utters his sentiments, as in his opinion duty demands. The gentleman from Tennessee (Mr. POLK) says that he has looked into the constitution, and finds there no such power, and has spent hours to show that it does not exist. Sir, if I do not find it there, I agree to vote with him; and if I do find it, and show it to him, then I ask that he will vote with me. I shall not go beyond the letter of the constitution—I have no need to go beyond it.

Mr. DRAYTON, of South Carolina, said: The charge which has been preferred against the accused is that of having assaulted a member from Ohio for words spoken by him in debate upon this floor. If the accused has committed this act, he is, in my judgment, guilty of a breach of one of the privileges of a representative, for which this House ought to punish him. I shall not resort to argument or precedents to sustain this position, because I regard it to be unquestionable that all legislative and judicial bodies have the right to protect themselves while exercising the functions which are devolved upon them. Were they destitute of it, their legitimate proceedings might be interrupted, and even the great objects for which they are constituted be prevented from being carried into execution. This right does not belong to the members of this House, as individuals, but as representatives of the people. If, by force or menaces, a member is obstructed in the performance of his appropriate duties, or if he be assaulted for what he has done in the performance of them, the rights of the people are invaded, in the person of the member who, in his representative capacity, is identified with the people whom he represents. Were the federal compact dissolved, and were we sitting here as a convention, without a constitution or laws, could any one doubt that we had the right to protect ourselves from threats or violence; or, in other words, that we possessed the right of exercising the means which should be necessary to enable us to accomplish the objects for which we had been delegated by the people? Such are the views which I take of the privileges of a representative; but these privileges are vested in him, solely that he may faithfully and fearlessly perform his representative duties; they do not attach to him when he is not in the performance of them. If a member uses expressions in debate, however injurious they may be to the reputation of another, he cannot be held accountable for them to any person; but if, for the repetition of the same expressions to a crowd in the streets, or for the publication of them by himself in the newspapers, he should be assaulted, he would then stand upon the same footing with his constituents, and can only appeal to the laws for redress. To execute his duties in this House, it is not requisite that a member should either repeat his speeches elsewhere, or that he should publish them—he is not precluded from the repetition or the publication of his speeches; but if, for either of these acts, he should suffer from personal violence, this House would have no jurisdiction over the offender, because the representative had not been assailed for what he has said or done upon this floor. Should a representative be assaulted for what he had uttered in debate, in consequence of his speech being repeated or published by a third person, the assailant would be guilty of a breach of the privileges of this body, because the representative not having participated in these acts, retains, undiminished, his privilege of freedom of speech in debate.

It has been insisted upon, that the breach of privilege now complained of is a violation of that part of the constitution which says, "that for any speech or debate in this House the representative shall not be questioned in any other place." Admitting the construction of the constitution by these gentlemen to be correct, I should reply to them, that the representative from Ohio had been assailed for the publication of his speech in the paper, and not for having delivered it on this floor. But, in my apprehension, the words quoted from the constitution are not applicable to the subject which is now presented to us. The entire paragraph in the constitution, an extract from which was made by the gentleman from Connecticut, is this: "They (that is, Senators and Representatives) shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to or returning from the same; and for any speech or debate in either House they shall not be questioned in any other place." By this paragraph, certain privileges are granted to a representative, in order that he may not be interrupted or controlled in the performance of his legislative duties. To effect these objects, he cannot be detained by legal process, unless charged with treason, felony, or breach of the peace, and cannot be brought before a court for any words spoken by him in debate, although the words might be such as would, but for his privilege, render him liable to an action for defamation. The constitution did not intend

to protect a representative from the assault of an individual, because he cannot legally be assaulted; and because, if he be assaulted the laws afford to him the same remedy as they do to every citizen; but unless shielded by his privilege, a representative could have no remedy where he had been legally arrested or sued. It is obvious, then, that the provision of the constitution which has been relied upon, is intended to protect members of Congress in certain cases, in which, but for that provision, they could not legally be protected; not to grant protection to them in cases in which they are protected by the laws of the land.

The House adjourned.

WEDNESDAY, May 9.

Case of Samuel Houston.

The House resumed the consideration of the resolution of Mr. HARPER, together with Mr. HUNTINGTON'S amendment, the one proposing that Samuel Houston be released from custody; the other, that he is guilty of a contempt and breach of the privileges of the House.

Mr. DRAYTON offered an amendment to Mr. HUNTINGTON'S amendment, going to declare that, as Samuel Houston had not been proved to have committed the assault for words spoken in debate, he be released from custody.

Mr. DODDRIDGE requested Mr. DRAYTON to withdraw his amendment; and

Mr. DRAYTON withdrew it for the present.

Mr. DODDRIDGE said: Mr. Speaker, I am sensible of the time misspent in the present investigation, and of the importance of that time. But I am sensible of the importance of the principles involved in the decision we are about to make. We are about to defend, or surrender, the privileges, the rights, and even the liberties of our constituents. These, and all that is dear to them, are at stake. In deciding on the present question, this House will uphold the principles of our free Government, or permit its very foundation to be razed. For no one can believe that the representative principle can be maintained when freedom of debate shall cease: without this, representation would be a vain thing. Whenever it shall happen that the representative of the people is restrained, by considerations of personal danger, from defending the rights and interests of those he represents, then representation ceases to exist but in name, and the Government, by whatever name it may be called, becomes arbitrary. There has been one common effort here, and out of doors, to arraign this House for attempting to secure to its members exclusive privileges; the question has even been debated as if the privileges of the members of this House alone, and not those of the whole body of the people, were involved. This effort may be available to divert public opinion, for a while, from the true question; but, rely on it, that attention will soon be recalled.

I have often reflected on a remark of a countryman of mine made in grave debate, sharpened by party feeling like the present; a remark which then struck me as more of a rhetorical effort than as a political truism. It was this: "That in all time, and in every nation, a great portion of the public mind is naturally inclined to monarchy; and that this its natural tendency should be vigilantly guarded against by the friends of our free institutions." The gentleman to whom I allude was considered the first debater in Virginia, if not in the Union: and though possessed of great warmth and of much decision, as a party politician, his general observations were always entitled to serious consideration. He did not mean that this natural tendency of our weak nature was to monarchy by name, but to arbitrary power, in the person of some one in whom we place an unlimited, and, therefore, a dangerous confidence. In free Governments, this fatal tendency first manifests itself in an impatience under the operation of those checks which are the very essence of, and without which free Government never did or can exist; and I fear we have arrived at a period when we can no longer shut our eyes to this impatience.

It was very happily said by the gentleman from Massachusetts, (Mr. ADAMS,) the other day, that this is a Government of co-operation and of checks. More of political truth could not well be expressed in fewer words. That, at least, is its theory, and, in general, has been its practice. The departments of Government are theoretically three; legislative, executive, and judiciary. These, to be separate and coordinate, must be independent of each other; each must operate as a check on the others; to effect which salutary end, each must be sustained by the others. Thus the judiciary, in Madison's time, was sustained by the Executive of the Union, against an organized, legalized, and armed opposition to its authority in Pennsylvania. Even in the time of Washington, it was sustained in the same State against an armed factious opposition.

The case to which I allude, of a legalized armed opposition to the judicial authority in Pennsylvania during Mr. Madison's Administration, deserves a more particular notice, as the exact parallel to that opposition now exists in the South. The case was this: A controversy arose in the admiralty court of Pennsylvania, during the revolutionary war, between the commander of a Pennsylvania Government brig and one Olmstead, owner of a Connecticut privateer, in which each claimed a certain captured vessel. Judge Ross, the Pennsylvania admiralty judge, determined in favor of Josiah, the commander of the Pennsylvania brig, and his crew. Olmstead appealed to the continental court of appeals in admiralty cases, which was no other than a committee of seven members of the continental Congress. That court reversed the decree of the State court, and ordered the captured vessel to be sold for the benefit of Olm-

stead and crew; but, in consideration of the state of the country, refusing to grant process to enforce their reversing decree. All the court concurred, except the honorable Thomas McKean, the president of the court, who was among the first jurists of the age, and who afterwards became chief justice, and finally Governor of Pennsylvania. The admiralty judge, whose decree had thus been reversed, nevertheless proceeded to execute it; selling the prize, and distributing their shares of the prize money to Josiah and crew, and paying to the celebrated David Rittenhouse, treasurer of Pennsylvania, the proportion to which that State was entitled by its laws. The sum so paid was vested in public securities, and after his death came to the possession of his daughters, who were his executrixes. The subject of this suit was brought, in a civil action, before the Supreme Court of errors and appeals of Pennsylvania, under the former judicial system of that State. Here again Mr. McKean presided as chief justice. This court concurred with the continental court of appeals, and, like them, were unanimous, with the exception of the president.

Soon after the adoption of the present federal constitution, it was decided that the present district courts of the United States were the proper tribunals for carrying into effect the unexecuted sentences and decrees of the late continental court of appeals. Olmstead, hereupon, filed his bill before Peters, district judge in Pennsylvania, who rendered a decree, but declined enforcing it until the case was brought before the Supreme Court, and there finally decided in favor of Olmstead, against the daughters of Rittenhouse. Meanwhile, Mr. McKean became Governor, and, on a message from him, the Assembly of Pennsylvania passed a law, authorizing the Executive of that State to call out a sufficient armed force to resist the marshal in the execution of any process from the federal courts to enforce the decision of the Supreme Court. The ground taken by Chief Justice McKean was, that Pennsylvania was a party, deriving a right to the money in the hands of the treasurer by the judgment of her own court, which the courts of the United States had no jurisdiction to review or reverse.

Here, then, was a case, in which a State claimed to be a party; claimed the subject under the judgment of her own court; viewed the jurisdiction of her court as final and conclusive; and contended that the federal courts exercised but a usurped authority—a case in which the Executive of the State had recommended the passage of a law, and had approved and signed it when passed, authorizing an armed opposition to the process of the federal judiciary. Before the occasion happened, on which this law was to operate, Simon Snyder became Governor. During his administration, a law passed, requiring him to correspond with the President of the United States, to procure some arrangement by which the execution of the sentence of the Supreme Court could be prevented, until the constitution could be so amended as to establish some separate, independent, and impartial tribunal, to decide controverted questions of power and jurisdiction between the Federal and State Governments. That State then proposed to the States an amendment to the federal constitution for the establishment of such a tribunal. Governor Snyder, in pursuance of the State law, wrote to President Madison for his concurrence in some measure to delay the execution of the process.

I am now, sir, speaking of transactions which may be new and appear strange to some; but I am speaking so near the public archives of the nation, where the evidences of what I say must be preserved, that any one doubting, or prompted by curiosity, may examine for himself; or, by calling at my room, may see official copies of those proceedings, certified from the Department of State of Pennsylvania. Governor Snyder, in addressing the President, did not fail to remind him of the party topics of the day, nor of the difference between a forcible resistance to the constitution and laws of the United States, and a sentence of a judge, founded on a usurped authority. This slang did not then suit the Presidential ear. The answer of President Madison is, perhaps, (and that is saying much,) the most laconic and decisive we have seen from his pen. He informed the Governor, that so far from being at liberty to concert any measures to prevent the execution of a sentence of the Supreme Court of the United States, it was made his duty, where opposition was made, to cause the same to be executed, and, for that purpose, to employ the necessary force. He added, that as no discretion remained with the federal Executive to withhold the measures which might lead to a painful issue, it gave him great pleasure to perceive that the act communicated to him by Governor Snyder gave the latter gentleman power to compromise and settle the affair with Olmstead, which he did. The President's allusion was to the judicial act of 1789; of which we, in Virginia, have understood Mr. Madison to be the penman. If this is an historical error, I would like to be informed; if it is not, the foreseeing the necessity of making such a provision at that time is but another proof of the great sagacity of the late President Madison.

The Governor had stationed a military force, under the command of General Bright, or Hambright, round the house in which the daughters of Rittenhouse resided, to prevent the marshal of the United States from entering and serving his process. Alexander J. Dallas was district attorney, and at this time publicly announced in court, in Philadelphia, the determination of the President of the United States to cause the sentence in Olmstead's case to be executed. This fact ran through the city like fire before the wind in dry stubble. The marshal summoned a posse of two thousand men, most of whom were attached to the Governor's political

party, but all of whom declared their readiness to aid the marshal; and, thereupon, the general's troops, one after another, deserted, and the militia refused to obey him. The marshal entered, and the process was executed. Thus, though the Government rebelled according to law, the loyalty of the people of that great State put the rebellion down. It was supposed that the same mail from Washington that conveyed the President's answer to Governor Snyder, brought also an instruction to the district attorney to make public the President's determination; but I do not know whether the fact was so or not. I was present, and beheld the joy universally diffused at the suppression of that rebellion.

At all times the judiciary has had its enemies. There have always been those who are opposed to the tenure of judicial office—those who will not consent to have the constitutionality of a legislative act, or the legality of an Executive measure, submitted to judicial determination. At all times, therefore, there have been those who were impatient under the operation of the judicial check established by the constitution, and some of whom have labored to bring it into contempt and disrepute among the people, and to destroy their confidence in its decisions, by disparaging its usefulness, patriotism, and purity. Many attempts have been made to beat down that great bulwark of liberty—this sheet-anchor of every free State. One of these came from one in the highest place, and was made in several of the State Assemblies. All these attacks, with the complete defeat of each, are matters of history. The confidence of the people in their judges remains unshaken, and, I believe, was never more general than at the present moment. But we must shut our eyes to the light that shines around us; we must cease to read what is passing abroad, and even to hear some things uttered within our walls, if we do not perceive a great effort is now making to lessen, if not to nullify, this judicial check of the constitution. In this effort the public press is deeply engaged. The judgments of the Supreme Court, when supposed not to agree with the opinions of the Executive, are represented as attacks on the President; if displeasing to a State, as attacks on that State. The tribunal is itself denounced as factious; its members as tyrants, aiming to usurp supreme power, and an unconstitutional control over the other departments of Government—one of which holds the purse, and the other, the sword of the nation.

I have already said that, in times past, the judiciary has been sustained by the Executive, when called on for aid. This is history. But whether it will now be so sustained, remains to be seen; and soon that, too, will become history.

As an executive council, the Senate is the only constitutional check on the President. If this check were removed, the President, in making treaties, and in the exercise of the high power of appointment, would be precisely as absolute as the Emperor of all the Russias. Should he, by treaty, transfer part, or the whole, of one of these States to a foreign power, and should the balance of our constitution remain, such a treaty of dismemberment would be the supreme law of the land; the judiciary would be bound so to expound it, and, doubtless, in doing so, would be sustained by the same Executive who would negotiate such a treaty. The Senate is the only check to an unrestrained Executive power. Remove this, and our Presidents are monarchs in fact, and might as well be so in name. And can we blink the fact, that a most powerful, untiring, and widely extended effort is now making to break down the Senate? The attack on the Senate is sustained by the presses friendly to the Executive, all over the Union. From that which is called its organ, in this city, the Senate is denounced, like the Supreme Court, as a factious body. Its members are accused of combinations, of corruption, of political intrigue, and abused in all the terms of reproach known to our language. Letters are written from this city, to be published in distant places, among their constituents, in order to degrade them there. These, when published at a distance, come back, and are republished here, as evidences of the public sentiment abroad; and are used here, not merely to degrade the members personally, but to break down the independence of the body as a legislative and executive council. It is urged by those who are concerned, here and elsewhere, in the manufacture of such evidences of public sentiment, that the Senate must be shorn of its powers and of its influence.

These modes of attack have been long known and used. The nation is accustomed to read letters from Washington, and has fallen into a habit of paying as little regard to them as we who are here, and know their origin and their merits. A new mode of accomplishing this desirable purpose of prostrating the Senate has been invented, of far more extensive influence. Public meetings are got up in every city, town, and hamlet—in every village and county place where the necessary materials are found. These meetings pass resolutions on the subject of Mr. Van Buren's nomination to England, and the rejection of that nomination by the Senate. It cannot be affirmed of the proceedings of these meetings, and of their resolutions, that they are all couched in the same language, but the substance of all is the same—so much so, as to prove them to be the common coinage of the same mint—manufactured in this city, for universal consumption. These resolutions declare that Mr. Van Buren performed all the duties of Secretary of State in a manner honorable to himself and useful to the country—that his mission to England was necessary for the public service. His rejection by the Senate is denounced as a corrupt, factious act, dishonorable to that body collectively, and individually disgraceful to the members who concurred in it.

These resolutions are adopted, it is said, in some places, by large collections of people, and by hundreds and thousands of those who cannot possibly know a syllable about the truth or untruth of what they so resolve. The foreign treaty relations of a country are never known to the great body of the people, while the actual relations of peace and war are known to all. Negotiations unfinished are generally secrets to all but the Executive, and ought to be so. It is not possible that, however well informed the great mass of our population may be, they should know enough of those intricate stipulations by which our commercial and other foreign relations are regulated, to decide on the merits or demerits of Mr. Van Buren, or anybody else, as to unfinished and undisclosed negotiations. Yet these resolutions are obtained by political partisans, and used for the purpose of putting down the Senate.

Thus we see that there exists a powerful, organized, active, and tireless party in this country, who are now lending their united efforts to the prostration of the judiciary and of the Senate. Many individuals engaged in these desperate enterprises against public liberty feel confident of entire success. Against one department of Government they believe they have already succeeded; and as to the other, they feel so confident of victory as to anticipate already the fruits of it. When this party shall have succeeded against the judiciary, and shall have humbled the Senate, what more will be necessary in order to the complete establishment of arbitrary power? Nothing more but to subdue the independence of the people at large, which can only be done by destroying the freedom of debate, and of proceedings here! And have we lived to behold the beginning of this last, desperate enterprise? If so, truly we may exclaim, with Senator Giles, "That in all time, (our own not excepted,) a large proportion of the public mind inclines to monarchy, not in name, indeed, but to arbitrary power—power unchecked, unrestrained, in the hands of one man;" and we must agree with him, "that it is our duty, as the friends of our free institutions, to guard and preserve them against the assaults of that power."

I wish the House to bear in mind, that, as I have no authority to ascribe the efforts against the constitution and public liberty of which I have been speaking, to the President, or to his past or present cabinet, so I do not so charge or ascribe them. It is not a new thing in history, ancient or modern, for the friends of those already clothed with high powers to offer to invest them with more—with absolute sway. Some there have been, whose patriotism compelled them to reject such offers. But, in the indulgence of an unlimited confidence in him who is at the head of this Government, there are those who would blindly break down all the safeguards, all the checks of the constitution, all barriers for the security of our liberties, in order to invest him with the absolute power; little thinking of the shortness of the time during which he can hold it, or of the impossibility of preventing it from passing into other hands, or of restraining its exercise whenever it may fall into those of an ambitious President, disposed to respect no law but his own will, and to disregard all restraints on its free indulgence.

Mr. BEARDSLEY, of New York, commenced by saying that this trial had occupied several weeks of the precious time of the House at an advanced period of a long session. Perhaps that time had been profitably spent. Of that, said Mr. B., our constituents will best judge. There was very little complexity or detail in any of the testimony, which could be supposed material; yet some two weeks have been required to hear and commit to writing what is called evidence. The play, said he, should be worth the candle. The importance of this evidence ought to be such as to reconcile us to the reflection that it was taken at the expense of more than twenty thousand dollars to the public. Yet, what is it? Any thing but what testimony before a judicial tribunal should be. Conjectures, hearsay, general suspicions, and *ex parte* affidavits. And these, if they could prove any thing, except the incompetency or unsuitableness of the tribunal which received them, were directed, as if in mockery of justice, at any and every object, rather than the point which seemed, if any thing was, material to a decision of the cause. Almost every rule of evidence hitherto deemed reasonable, seems to have been disregarded in this trial. The House has floundered through the testimony apparently without chart or compass to direct it, and in clear violation of the most well-settled and authoritative legal principles. The debate has been about equally discursive and erratic. Many topics have been introduced and gravely argued, which have neither been denied nor doubted in any quarter. I hope, sir, that the judgment of the House, when it shall be rendered, will atone for the irrelevant mass of proof which has been given, and the aberrant character of the discussion.

Gentlemen have set themselves seriously at work to prove that members of this House have certain constitutional privileges. What, sir, is privilege? A right, exemption, or immunity, possessed by one or more persons, but not common to all their fellow-citizens. Those who are entitled to immunities of this nature are privileged persons, and of this description are members of this House. All privilege is said to be a nuisance, yet, for reasons deemed sufficient of themselves, some of a very important character have been conferred upon those who represent the people here. No one has denied, no one can deny, their existence. They were, no doubt, conferred, and are tolerated on public grounds, and not as a boon or indulgence to individuals. They should be few, limited, well defined; and they are of that character. The constitution which created and confers them, is explicit, and too plain to admit of doubt or

cavil. Senators and Representatives in Congress are privileged from arrest "in all cases, except treason, felony, or breach of the peace;" "and for any speech or debate in either House they shall not be questioned in any other place." All this, sir, is plain and explicit. Here is no room to raise a question. These are the undoubted rights or privileges of members of Congress. Whoever violates them, does a wrong to the individual and the country, sets the constitution at defiance, and justly exposes himself to that measure of punishment which the laws have provided for such cases.

These privileges are founded on good reasons. Representatives of the people ought to speak freely, and without the fear of personal injury, or the vexation and hazard of responsibility elsewhere. If words, slanderous in their terms, are uttered here, the constitution declares they are not slanderous. If spoken on another occasion, and in another place, malice would be implied. But in words spoken here, malice is repudiated, and for all legal purposes good motives are absolutely inferred. We are exempt from civil process. For debts, we may set the law and its officers at defiance. We are beyond their reach. Our privilege is our shield. We are free from arrest in all cases except for crimes —"treason, felony, or breach of the peace."

These impunities, not enjoyed by others, but which are the indisputable rights of members of this body, should admonish us of the correspondent duty—never to abuse them. They were not designed as a shield for mendacity, fraud, or malice; and should never be used as a cover for defamation, or to stir up an unfounded and false clamor.

It has been said that these are not strictly the privileges of members, but of their constituents; or rather, that they were conferred for the benefit of the constituents, and not at all for the individual members. The discussion upon this branch of the subject, I believe, has not been very intelligible to any one. The privileges of members are their rights—their individual and constitutional rights; and whether conferred with a view to their own protection and security in performing their public duties, or for a higher object, the benefit of their constituents, I regard as a matter of utter indifference. Sufficient for me that the privilege has been conferred, that the right exists, that the constitution has spoken, and all are bound to heed and obey its voice. We are not legislating with a view to determine what privileges ought to be conferred on members of this House. That was decided by the people in adopting the constitution under which we are assembled. Our privileges are to be found in that instrument. Legislation cannot abridge them; nor can the whim, the caprice, or the will of this body make them, like the privileges of the British Parliament, unlimited, undefined, and undefinable.

I therefore, sir, dismiss the matter of privilege. If the privilege of a member has been invaded, the existence of the privilege itself is not denied. If a wrong has been done, and no one denies that there has, the law has provided ample means for redress. The courts are open; justice will be sure and speedy; the course is plain and free from difficulty. No one doubted the power of the courts to inflict an adequate punishment, and afford to the injured party an adequate reparation. But here, in this House, the disputed point—indeed, sir, in my judgment, the only essential point in controversy, is the power of the House to try and punish for an offence which I admit has been committed.

The testimony has undergone a strict analysis, and been summed up in due form. For what purpose? To prove what the accused admitted in his plea, and what no one has questioned—that an assault has been committed on the member from Ohio, (Mr. STANBERRY.) To prove further, what I will not stop to controvert, that the assault was made for words spoken in debate. Both points, for the purpose of this discussion, I will admit to be established. I will take them in this respect to be indubitable. But what consequence shall we draw from them? Why, certainly, argued the gentleman from Virginia, (Mr. DODDRIDGE,) if the member was assaulted for that cause, it was a breach of the privileges, and a high contempt of the authority of this House. And as "a privilege without the means of enforcing it, and of securing its enjoyment, is no privilege," this House has therefore an unquestionable right to try and punish the accused for that assault!

This is the species of argument which we have heard; and in this manner the honorable gentleman comes to the conclusion that this House is fully authorized to do what it is assuming to do. I differ with the honorable gentleman totally in both these positions. The assault on the person I admit; but I deny that there was any assault upon the privilege of the member, or any contempt of this House. Privilege is a peculiar right or immunity, possessed by the few, to the exclusion of the many. A breach of privilege is but a violation of that peculiar right. But this assault would have been equally an outrage, and equally unjustifiable, had it been committed on any other citizen. It was a violation of rights equally possessed by all, and not of any special right, which adheres to an individual as a member of this House. It was a breach of the general law of society, and not of the peculiar immunities of this House. I maintain then, sir, that the rights of the member, as such, have not been wounded, nor has the dignity of the House been insulted, or its authority contemned. The general law of the land is ample for this case, without relying upon any peculiar provision for the security of members of this body.

But if I am mistaken in this; if, indeed, this may with propriety be treated as a breach of privilege and contempt of this House, what then? Does it follow that this House is authorized to punish? That is averred by the gentleman from Virginia. His position is, that the

body possessing the privilege must have the means of securing its enjoyment, and of punishing for its violation, or it is no privilege. This is bold ground. If the honorable gentleman has sustained it, or if it can be sustained in any manner, I will admit the question to be settled. But although the position has been advanced as authoritative, yet I submit to the House that it was accompanied with very little argument to illustrate or establish its accuracy. I confess, sir, that I cannot accede to this opinion of the honorable gentleman, able and accurate as I know him in most things to be. Is it true that an individual or a public body, whose privileges have been assailed and trampled under foot, has a right, not only to repel the assailant, but to inflict upon him retributive justice? I should say not, sir. I should turn to the courts for justice. I should invoke their powers, where the individual wrong or the public offence called for reparation or punishment. But the honorable gentleman, like the accused now on trial, would take the law into his own hand. A wrong having been done, by violating a privilege, he would himself right it: the aggrieved and injured party he would make judge. Upon this argument, the right and the authority to punish are called into existence by the attack upon privilege. This is new doctrine, and an unusual mode of transmitting and acquiring judicial power. A blow has made many a worthy man a knight, but upon this principle the beating of one member transfers judicial power not only to himself, but to all other members of the same body.

I would not, sir, treat this subject lightly or irreverently. We are inquiring into the constitutional powers of this House, the source of its authority, and the manner in which it is acquired. If, indeed, our powers as a judicial body arise upon the perpetration of an outrage on a member, it cannot be improper to explore this theory of the constitution, and present it to the public gaze. Will it stand examination? Can the judgment of any gentleman approve it? The mass of our powers are legislative, not judicial. Ordinarily we have not the powers of a court; nor have we at any time, unless they are brought into existence, as is urged by the gentleman from Virginia, by a breach of privilege. His theory regards the power to punish as incident to the possession of the privilege. But how does the gentleman prove the accuracy of this position? Does he find it in any judicial system whatever? Is such the opinion of any jurist or statesman, except the gentleman himself, whose opinion is worthy of respect? Where does the gentleman find authority for the position he has advanced with such confidence?

We have no privileged orders here, yet there are many individuals, aside from members of Congress, who are temporarily clothed with privileges. Attorneys at law, jurors, witnesses, parties to suits, are familiar instances. All these are privileged—have rights peculiar to themselves. But, how do they personally vindicate these privileges when assailed, and inflict summary punishment upon the violator? I need not answer this question. We all know that they have no power of that description, and that their only relief is in the courts. They may punish. Such is the nature and the province of judicial power; but I take leave to deny that any such power is necessarily conveyed by conferring privileges upon an individual or a public body. The English Convocation, or Ecclesiastical Synod, furnishes an apposite illustration of the question now under discussion. A public statute of the realm gives to members of that body the same rights and privileges as were or should be enjoyed by the nobles and commonalty called to Parliament. Yet, sir, was it ever heard that that assembly, the miniature of a Parliament, with all its gorgeous display and expanded powers—with all the immunities of the body to which it is assimilated—was it ever pretended that it could deal out retributive justice for a violation of its privileges? Certainly, sir, nothing of this nature was ever suggested there. It remained for the honorable gentleman from Virginia to discover and present as an axiom in legislative jurisprudence, that the power to punish is inseparably connected with the possession of privilege!

THURSDAY, May 10.

Case of Samuel Houston.

The House resumed the case of Samuel Houston—the question pending the same as yesterday.

Mr. CRANE, of Ohio, said when this case was first brought before the House, I supposed it merely involved a question of fact, and that, if the charge was sustained by the evidence, the appropriate punishment would follow, as a necessary consequence. But I was mistaken. Some gentlemen wholly deny the power of this House to punish contempts and breaches of privilege; others, restricting the power to the narrowest possible limits, maintain that the peculiar circumstances of this case will not warrant its exercise. I shall endeavor to show that the charge against the accused is fully sustained by the proof; that the House does rightfully possess the power to punish; and that this case presents a fit occasion for its exercise. The charge is, that the accused committed an assault and battery on the member from Ohio, for words spoken in debate by the latter. The accused, in his answer, admits the commission of the assault and battery, but, through his counsel, seeks to avail himself of a novel species of defence; that this outrage on the gentleman from Ohio was committed, not for the speech made by him in this House, but for the publication of that speech; and his refusal to answer the interrogatory of the accused, whether that publication was a correct copy of his speech.

The defence is not sustained by the evidence, and, if it were, it would not avail the accused.

I will not waste the time of the House, by a minute recapitulation of the testimony. The answer of the accused does not directly deny that the act was committed for the cause assigned in the charge, in his letter to the member from Ohio; he makes no inquiry or complaint respecting the publication; his only object was to ascertain whether that publication was a correct report of the speech. For aught that appears in the testimony, the accused did not know that the member from Ohio had any agency in the publication, until the fact was stated by him on his examination. But if any doubt rested on this point, it would be completely removed by the testimony of the member from Tennessee. The answer of the accused to the well-meant remonstrances of his real friend, proves the temper of his mind—proves conclusively that it was the speech delivered in this House which roused his indignation, and inflamed his thirst for vengeance; and that it was a mere afterthought to ascribe the subsequent outrage to the publication of that speech. It was here, in this Hall, he had suffered wrong, and here should the wrong be righted. The court of Heaven itself should not shield the wrong-doer. The ferocious contempt of all sanctions, human and divine, exhibited in that answer, however characteristic it might have been, in the mouth of a robber chieftain, "with hand of blood and brow of gloom," in the sixteenth century, and in a country then the most lawless and worst governed in Europe, surely will not be endured in this enlightened age and civilized country. To my judgment, the evidence establishes fully and incontrovertibly, that the true and only cause of this outrage is the only one assigned in the charge, and that the accused cannot and ought not to evade the consequences of this act, by ascribing it to another and simulated motive.

But, were the fact otherwise, I deny that the decisions of the English courts, in the cases of Lord Abingdon and of Creavy, are to be considered as applicable to, or authoritative in, this country. Nor would the defence now set up be sustained in the British House of Commons. By the law of that country, as expounded by its judges, a member of Parliament is not responsible for any thing said by him in debate, except to the House of which he is a member; but if he publish his speech in the newspapers, though for the purpose of correcting an erroneous report made without his privity or consent, this act of publication renders him liable to a prosecution, if the published speech contains matter reflecting on the character and conduct of an individual, and he cannot set up his privilege as a bar to such prosecution. A party arraigned before the House of Commons for an assault and battery on one of its members, urges this defence: True, I assaulted and beat your member; but the act was done for the publication of the speech, not for the speech itself. By the law of the land, a member publishing his speech may be prosecuted as a libeller; *ergo*, a member publishing his speech may be assaulted by any one who fancies himself injured by such publication, and your rights are untouched, your privileges inviolate. I deny the logic of this conclusion. It is a *non sequitur*. In fact, the House of Commons has always punished insults and personal violence to its members, from whatever cause, as a breach of privilege.

In all arguments drawn from analogy, we must be careful that the cases are alike, that there is no essential difference in the facts and circumstances; otherwise, our reasoning will be inconclusive and erroneous. Before we adopt and naturalize these doctrines of the English courts, and extend their application to such cases as the one now before us, let us compare the difference in the forms of Government, and of the institutions of the two countries. The one is a monarchy, of which the secrecy in counsel is a constituent quality; the other a republic, of which publicity is the life and soul. In England, in a prosecution for an alleged libel, the truth of the charge cannot be given in evidence; here, truth may be freely published, whether it affects Government, magistracy, or individuals, if such publication be made from good motives, and for justifiable ends.

"The two Houses of Parliament," I quote Hallam's Constitutional History of England, vol. 3, p. 398, "are supposed to deliberate with closed doors. It is always competent for any one member to insist that strangers be excluded; not on any special ground, but by merely enforcing the standing order for that purpose. It has been several times resolved that it is a high breach of privilege to publish any speeches or proceedings of the Commons; though they have since directed their own votes and resolutions to be printed." It was resolved, *nem. con.*, February 26, 1729, that "it is an indignity to, and a breach of the privilege of this House, for any person to give, in written or printed newspapers, any account or minutes of the debates or other proceedings of this House, or of any committee thereof; and that, upon discovery of the authors, &c., this House will proceed against the offenders with the utmost severity." In 1738, the resolution was repeated in nearly the same words. On the 30th of April, 1747, Cave, the editor of the Gentleman's Magazine, was brought to the bar for publishing the House's debates; he denied that he retained any person in pay to make the speeches, and, after expressing his contrition, was discharged, on payment of the fees.

Look at the contrast exhibited by the American Congress. So far from this secrecy, this caution to keep the people in ignorance of our proceedings, every facility is afforded, and great expense is incurred, to give publicity to them. Extra copies of important public documents are printed, and scattered through the whole country, for public information. Instead of conniving

at reporters, as in England, admitting them as it were by stealth, and secreting them behind the pillars of the galleries, here they are admitted of right; you assign them conspicuous stations in the Hall, and, in fact, constitute them officers of the House. I know that those rules and orders of Parliament, though unrepealed, are obsolete; that the debates of both Houses are freely and fully published; and the intelligent writer to whom I have referred, attributes the improvement, nay, even the preservation, of the British constitution, to this circumstance. "Perhaps," is his language, "the constitution could not have stood so long, or rather would have stood like a useless and untenanted mansion, if this unlawful means had not kept up a perpetual intercourse, a reciprocity of influence, between the Parliament and the people." But a corrupt House of Commons, imbued with the slavish doctrines of a former age, anxious to muzzle the press, to shroud their proceedings in secrecy, may arouse those sleeping lions, and will do so, whenever they believe the spirit of the people is broken to submission.

Are the representatives of the American people prepared to admit the doctrine that a member cannot publish his speech, however truly and faithfully, without divesting himself of his privilege? No reporter, however skilful, can report with perfect accuracy the language and sentiments of a speaker. Is it not notorious that, if you deny to a member the right of revising and correcting the notes of the reporter, his speech must go out to his constituents, and to the public, mutilated, distorted, and misrepresented? Are gentlemen aware of the consequences of this rigorous exclusion of the right of revision and correction? Why, speeches, as delivered here sometimes, resemble bear-cubs, which are licked into shape only when they approach the press.

FRIDAY, May 11.

Case of Samuel Houston.

The House resumed the case of Samuel Houston.

Mr. KERR, of Maryland, said: Mr. Speaker, in the decision of this question the rights of the people of this Union are involved. It goes to the foundation of the Government; it strikes at the root of liberty; it may realize the boding fears of many who already apprehend a dissolution of the Union. For, if the representatives of the people, here assembled, cannot protect themselves against violence, and external influence and control, by whom shall they be protected? By what laws, by what judgment, or by what tribunals can they be preserved?

Sir, we are about to decide a case in which, it is true, the rights and privileges of a private citizen are involved, as well as the privileges of the whole people, in the persons of their immediate representatives. The dignity of this people is thus brought into question by the conduct of the accused. To the high tribunal of public opinion, and to our immediate constituents, we must all answer for the course that we may now adopt. It becomes us, therefore, to deliberate calmly, and to decide with an enlightened judgment, upon a case so important; and he who treats the question lightly, cannot, I think, either justly appreciate the character of our Government, or regard the permanency of its free institutions.

The first question before the House is, whether Samuel Houston is guilty of a breach of its privileges. This being decided affirmatively, will draw after it, as I trust I shall prove by reason and authority, the power of punishment, as well as the kind and extent of it. But this question involves an inquiry into the nature and extent of our privileges, as a matter of constitutional right and power, and into the particular facts which are alleged to have constituted the transgression imputed to the accused.

I listened, sir, to the defence which was offered by the learned counsel for the accused, not only with a respectful and devoted attention, (an attention greatly heightened by the interest of ancient friendship,) but with a deep anxiety to be informed upon this weighty question. I felt every disposition to applaud his eloquence, and I could not but sometimes admire his ingenuity; but his constitutional and legal interpretations I was compelled wholly to repudiate. The learned counsel, and honorable members too, have talked of privileges undefined and undefinable; and the counsel of the accused complained, even to the last, that he was in some degree of ignorance of the charge alleged against his client. He claimed, at least, that one inalienable right belonged to the citizen—that, before he is put upon his trial, he shall know and undersand the accusation against him. In the eloquent and ingenious counsel these were the commonplaces, I will not say the tricks, of the advocate; but, in honorable members, with a full knowlege of the facts, and with the constitution in their hands, those grave doubts and subtleties did, I confess, surprise me. The accused himself displayed no such fastidious hesitation on this point. He affected not to misunderstand the charge. He confessed the violent act charged upon him, but avoided its legal consequence, by denying the intent imputed, or that he has committed any breach of constitutional privilege. The counsel at length supposed that "the main charge was that of assaulting a member for words spoken in debate, and, thereby, committing a breach of the privileges of this House;" and then he boldly said he would undertake to show that no such privilege belongs to a member of this House, as to be free from assault for words spoken in debate, unless it were in the House, or on his way to or from the House; at least, so far as the power of this House could be extended for his protection, or for the punishment of the offender.

Sir, both the privilege and the specific charge of a violation of it were represented in the full-

est manner to the party accused. The constitution has clearly defined the privilege and the offence. By the order of this House, Samuel Houston was informed from the Chair that he had been brought up to answer the charge of having assaulted and beaten WILLIAM STANBERRY, a member of the House of Representatives of the United States from the State of Ohio, for words spoken by him, in his place, as a member of this House, in debate upon a question then pending before the House. Moreover, sir, a copy of the letter of the member from Ohio, containing an exact specification of the alleged outrage, was delivered to the accused. I recite these proceedings to meet the extraordinary argument of the counsel, and to show the fallacy of the statements which have been made of the case. They prove that the party had notice, the most formal and precise, of the nature of the charge, that this was known to his counsel, and known to every member of this House.

I will now, Mr. Speaker, refer to the foundation of that power which it is proposed to exercise on the present occasion, and I conclude that the privileges conferred by the constitution incidentally and necessarily embrace the power to punish any violation of them.

By the sixth section of the first article of the constitution, privileges of members are thus defined: "They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place." Here, sir, are as plain and clear definitions of the privileges of members, as language could express. Here are rules of action and of right, not hung up on high, like the laws of the bloody tyrant, which have been alluded to, but plainly set down in the constitution, and in this little manual, where he who runs may read. The privilege is defined, and any violation of it is an offence against the constitution, and necessity, if nothing else, gives the law of punishment. There is, too, a necessary connection between a breach of the privileges thus defined and a punishment of the offender, by restraint, during the period of their continuance; and yet to adopt the nice distinction which has been set up by some gentlemen between preventive and retributive punishment, as laid down by them, would refine away the whole efficacy of the privilege, and the power of preserving it.

It has been remarked that the framers of our constitution were well versed in parliamentary history, and were aware of the principle laid down in the English authorities, that privileges of Parliament were left undefined, because they were said to be undefinable, and that their dignity and independence were preserved by keeping their privileges indefinite, and that, therefore, in our constitution, privilege was limited. The framers of the constitution have, at least, clearly and prudently defined those privileges which are essential to the free and independent action of representatives, although they left the mode of protecting them to the law, which necessity and the nature of things conferred.

The privilege now in question is plainly set down in this constitution, which all know. It is therein proclaimed that a member shall not be questioned elsewhere for any speech or debate. But it is contended that, as no express power is granted to punish a breach of this privilege, this House cannot exercise any power over the party interfering with it, although it is admitted that within its own walls it may inflict punishment for any disturbance of its proceedings there. Such doctrines amount to a total abrogation of the provisions of the constitution, whilst the admissions of those who hold them prove their absurdity, and establish the opposite construction.

The privilege declared was intended to secure to the House, in the persons of its members, or rather to the people whom they represent, free, uninfluenced, and undisturbed deliberation. The power of legislation, with which the constitution has invested each House of Congress, necessarily includes the right and the power to deliberate freely and without restraint. This freedom cannot exist without the power of self-protection. The means of legislation are inherent in the power to legislate; they are incidental, because the power cannot otherwise exist. If the House has any self-protecting power, it is not because it is, in any case, specially given, but because it is essential to enable it to perform its functions: and, to this end, it must preserve the liberty and safety of its members, so as to enforce their attendants. These privileges, and the enforcement of them, are the essential means of exercising the power to legislate. They are not conferred as personal honors or distinctions upon individuals, but for the benefit of the people; hence, they do not attend us at our homes in the recess, but are limited to the period of our service of the people, and cease with the necessity which created them. Therefore, sir, those wise and patriotic men who framed our constitution, with such knowledge of the essential nature of these legislative privileges, and of the struggles of the English Parliament to maintain them, would never have sent it unfinished from their hands, had they not been perfectly convinced, from reason and analogy, that the incidental power to enforce the privileges they defined would necessarily be inferred. And on whom has the constitution conferred this power to protect and preserve the privileges so clearly given to the Senators and Representatives in Congress?

Sir, it is on each House, not on the Congress; and in each House necessarily arises the incidental power of preserving its existence, and enabling itself to discharge the deliberative and legislative functions, which that constitution expressly assigns to it. By looking to any other branch or department of the Government

for protection, this House at once gives up its independence and its very existence. If we call upon the Senate, it has merely the same power as ourselves, in reference to its own body—not to ours. If you refer to the Executive, it has no power especially given for your protection; and the judiciary, in its slow process, may leave you to perish, or to be kicked out, like the Rump Parliament of England. It is present protection that you want. If you attempt to pass laws specially to define and secure your privileges, and punish the violation of them, the Senate will tell you that you already have the power, or they may not agree to your system, or the Executive may veto it. Thus, one branch of the Legislature, by throwing itself upon the other for protection, gives up the efficacy of that power of independent self-preservation which the constitution clearly intended to bestow on each; and, by a reliance on the Executive sanction, both Houses would submit themselves to the footstool of Presidential caprice.

But, sir, the very admission, which is made on all hands, of the right to punish others than members for contempts committed in the presence of the House, is an admission of the power to punish for contempts, by intimidation or violence, out of the House; because there is no express authority or power given in the one case more than in the other. An express power is only given to the House to punish its own members for disorderly behavior, and even to expel them; but I have seen or heard it observed that that power was given to obviate a possible doubt of the power of the members representing the other States to restrain any representative of a State equally entitled to act, in his own discretion: and it was necessary to the free action of all that every one should be duly restrained to order.

This concession of the power to punish for acts committed within the walls of the House, relinquishes the whole ground of the argument, which is the want of an express grant, for there is no express power to punish others than members; and why should this House be at liberty to exercise any ungranted power to punish acts committed within its walls, any more than for those committed beyond them? The illustration of this argument has become familiar by repetition: the object is to protect members in the free exercise of their deliberative functions, and in freedom of debate. If a man be beaten and disabled as he is leaving the House, or at his lodgings, or in the street, whilst he is here at the seat of the legislative session, or is questioned, and intimidated by bludgeons, is not the inconvenience, and the violation of his privilege, the same? Is not the influence to interrupt the free exercise of his functions the same?

And now, Mr. Speaker, I will discuss, in a very brief manner, the question of fact. Is the charge proved? The nature of the charge and the circumstances of the case are fully before us. Do the facts proved support the allegation of the violence having been committed on the person of the member from Ohio with the intent and for the cause imputed?

The counsel noticed two minor charges, (as he called them,) that of the member having been beaten so as to have been kept from his seat in this House, or having been beaten on his way to a member of the Senate on business. I presume, sir, it can make no possible difference in the case, where he was beaten, if the assault was committed on account of words spoken in debate. That the assault and battery was committed, has been amply proved; and in what manner? Much has been said, sir, about the provocation, and whether the extraordinary violence was induced by the speech, or the publication of the speech; but one thing is clear—that, if any case could occur to call for a solemn investigation by this House of its violated dignity in the person of one of its members, it is to be seen in the enormity of the attack upon the person of the member from Ohio. Shall I hold up to you the picture of this transaction from the evidence which has been given of it? I will not do so to influence your minds, but to bring to them the true nature of the case you are called upon to decide. It is to place before you the member from Ohio, as the representative of an important State, in the actual condition to which the exercise of his constitutional privilege here has reduced him, and to put to a fair test the duties which we owe to ourselves and the people whom we represent, and more especially to the constituents of that member. I will read from the deposition of the honorable Senator from Missouri, (Mr. BUCKNER,) his account of the rencontre, from the first meeting of the accused and the member from Ohio, till the total prostration of the latter:

"Houston was standing not directly facing the palings, but rather quartering towards it, and quartering to me; without answering my question, he appeared to shift the position of his feet. I saw nothing at the time, but soon discovered a gentleman coming across the Avenue, and pretty near to us, and near to the pavement; at the time I did not recognize the individual when I first observed him, but as he approached nearer, and was in the act of putting his foot upon the pavement, I discovered it to be Mr. STANBERRY. It occurred immediately to me that there would be a difficulty between them, having understood previously that there had been dissatisfaction between them. Houston did not reply to my question. As STANBERRY approached nearer, he appeared to halt in his place. Houston asked if that was Mr. STANBERRY; he replied, very politely, and bowing at the same time, 'yes, sir;' then, said Houston, you are the damned rascal, and with that struck him with a stick which he held in his hand. STANBERRY threw up his hands over his head, and staggered back; his hat fell off, and he exclaimed, 'Oh, don't.' Houston continued to follow him up, and continued to strike him. After receiving several severe blows, STANBERRY turned, as I thought, to run off. Houston at that moment sprung upon him in the rear, STANBERRY'S arms hanging down, apparently

defenceless. He seized him, and attempted to throw him, but was not able to do so. STANBERRY carried him about on the pavement some little time; whether he extricated himself, or Houston thrust him from him, I am not able to determine. I thought he thrust him from him; as he passed him, he struck him, and gave him a trip; STANBERRY fell: when he fell he still continued to halloo; indeed, he hallooed all the time pretty much, except when they were scuffling. I saw STANBERRY, after having received several blows, put out both hands in this way, he then lying on his back. I did not discover what was in his hands, or if any thing was; but I heard a sound like the snapping of a gun lock, and I saw particles of fire. Houston appeared to take hold of STANBERRY's hands, and took something from them, which I could not see. After that, Houston stood up more erect, still beating STANBERRY with a stick over the head, arms, and sides; STANBERRY still kept his hands spread out. After Houston's giving him several other blows, he lay on his back and put up his feet; Houston then struck him elsewhere. Mr. STANBERRY, after having received several blows, ceased to halloo, and lay, as I thought, perfectly still. All this time I had not spoken to either of the parties, or interfered in any manner whatever. I now thought STANBERRY was badly hurt, or perhaps killed, from the manner in which he lay. I stepped up to Houston to tell him to desist, but, without being spoken to, he quit of his own accord. Mr. STANBERRY then got up on his feet, and I then saw the pistol in the right hand of Governor Houston for the first time."

Such is the evidence of the honorable Senator. With respect to the witness, I will say only one word: "Mine enemy's dog, had he bit me," should not have died that death in my presence. And it is said that our proceedings, in such a case as this, will be decided by the people. I trust, sir, that gentlemen are greatly mistaken. The people will regard the powers with which they have invested us, and they will hold us responsible for the due exertion of them for the vindication of the privilege of every member of our body. If any man could be more abused and degraded in his person by the violence of another, I know not how; and are we at liberty to turn off the complaint of the member from Ohio, and condemn him to loss of caste because his pistol missed fire? Shall we undertake to degrade him from the right of protection and the privileges of this House common to us all, under the provisions of the constitution, because he proved so unfortunate as not to have killed his assailant? Shall I ask, sir, what else he could have done? Some of us might affect to make a ready answer; but we have never tried, and therefore cannot know, the difficulties of such a moment of discomfiture and impending destruction.

The counsel for the accused has taken a view of the conduct of the member from Ohio, which is wholly unsupported by the evidence, and has, with the aid of imagination, represented him as a man arming himself for an affray, and going forth as an aggressor, and he has more than intimated the character of the act, in the eye of the law, had he successfully maintained the fight. Sir, the evidence wholly refutes this statement. Although the member had been informed that it was rumored that the accused meant to shoot him in the street, and had been advised by a friend to prepare to defend himself, and although he had armed himself accordingly, he was afterwards thrown off his guard by various circumstances, and carried but a single pistol. At eight o'clock at night, when he was going on a visit to a friend, and had no expectation of meeting the accused, he was suddenly accosted by the accused, and instantly struck down with a bludgeon. Whilst prostrate beneath his assailant, and as he continued to strike him with great violence, he got his hand upon his pistol, (his only weapon and his only possible means of defence,) and endeavored to discharge it. He did not draw the pistol till he was beaten to the ground, and was lying helpless, and in the hands of his adversary; and he resorted to the pistol, as he had a strict legal right to do, to save himself from the probability of impending death or great bodily harm. And so it would have stood in the eye of the law, upon the settled rule of self-defence, in any judicial forum.

For what was this ignominious chastisement inflicted? It is alleged to have been for a speech of the member from Ohio, made in this House, in a debate on a subject pending before it. In that speech was a passage importing a charge upon the late Secretary of War of an attempt made by him fraudulently to give to the accused the contract for Indian rations. I am not to undertake to maintain this allegation of a fraud, in order to support the argument I have in hand. It is sufficient to say that this House, having an inquisitorial power over all high officers of the Government, is the proper place for a fair inquiry into every species of corrupt or improper conduct in them, which the ordinary tribunals of justice cannot reach; and that it is the duty of every member who comes to the knowledge of fraudulent practices in the officers or departments of the Government, to communicate the information to this House. He must do this, however, under a responsibility to this House, and to public opinion. I know nothing of the subject to which the member from Ohio so emphatically alluded in his obnoxious speech, and I have no sympathy or participation in the charge, more than any other member of this House; and I speak merely in reference to the privilege of speech and debate, which is secured to every member on this floor by the express provisions of the constitution. For myself, I would never give my sanction or countenance to light and frivolous intimations of fraudulent practices in any officer of Government; but, if I should become master of any such secret, and of such facts and circumstances as would convince the mind of a reasonable man of the reality of their existence, I would feel myself bound to disclose all my information to the House, and I would do it fearlessly. What, then, has the member from Ohio

done in his place? He has alleged a corrupt design on the part of the late Secretary of War in an important transaction, in which an official duty had devolved on him, and he went further, and charged the President with a full knowledge of the business. He moreover gave his reasons for his belief in the facts alleged, and referred in part to his authority. Sir, that member and every other is amenable to this House, even in the penalty of expulsion, for a gross, false clamor; but his privilege of freedom of speech and debate here cannot be constitutionally or legally questioned in any other place. An inquiry into frauds or corruptions in any branch of the Government is too important to the interests of the people to be stifled by violence or intimidation, even from individuals who may deem themselves unjustly accused.

In England, it is an established principle, and a rule settled even by their courts, that a member in his place may make a charge or propose an inquiry upon common fame; and here the constitution has given an equal freedom of speech and debate. It is a freedom of debate and a liberty of action, with which this House is invested by the people, in order that it may subserve their own great paramount interests.

I cannot, Mr. Speaker, entertain the slightest doubt that the member from Ohio was questioned and beaten for his speech made in this House, and I do not perceive how it is possible from the evidence to come to any other conclusion, notwithstanding all the subtlety that has been practised to disprove it.

The speech of the member was delivered in the House on the 31st of March, and was published in the Intelligencer on Monday the 2d instant. The note of the accused was dated on the 3d, and delivered on the 4th, by the honorable member from Tennessee, (Mr. C. JOHNSON,) to the member from Ohio. "The object of this note is to ascertain whether my name was used by you in debate; and, if so, whether your remarks have been correctly quoted." Such is its tenor. The reply was (dated on the 4th, but not delivered till the 5th)—"I cannot recognize the right of Mr. Houston to make this request." Throughout all the conversation of the accused with his friend, the honorable member from Tennessee, not a syllable was ever said by him about the publication as distinct from the debate; and this appears, notwithstanding the close examination of an honorable member to that point. The witness said, indeed, in answer to the question, that he certainly thought that the accused felt himself aggrieved by the publication in the newspaper, but did not remember that he ever uttered any thing from which that impression was drawn. The accused swore that he would right the wrong where it was given, and would whip the damned rascal before he left the House, the honorable member from Tennessee (Mr. C. JOHNSON) and the accused then standing behind the Speaker's chair! But the counsel negatives this idea, and puts the provocation upon the refusal to answer the accused, and the insult of the answer addressed to his friend! And yet the writing out and publication of the speech by the member are relied upon as an unprivileged aggression, upon the evident afterthought suggested by a distinction found in some English cases. But did the accused know on the 3d, or even on the 4th, that the member from Ohio, and not the reporter, had written out the speech, and caused it to be published? From all that appears, he never did know it till this trial had proceeded. But, sir, the writing out and publication of a speech made here by a member in debate are of the essence of the privilege secured by our constitution, as has been already shown by the gentleman from Virginia, (Mr. DOD-DRIDGE,) and the distinction, therefore, of these cases can have no application in this country. I was aware of one of the cases referred to as supporting the distinction, but I have no doubt it would be found that this case, and all others of its class, must rest on an old standing rule of the House of Commons, which has subsisted for one or two centuries, that the debates in the House should not be divulged or published without its order or authority.

Under the operation of this rule, the English people had once, perhaps, a more restricted knowledge of the speeches and doings of their representatives in Parliament, though the spirit of liberty found means long ago to evade the restriction, and to disseminate an adequate account of every thing that was there said or done. I remember well, sir, my reading, when a boy, in "The Gentleman's Magazine," published in London a little less than a century ago, "Debates in the Senate of Lilliput," which were none other than the regular speeches in Parliament under the guise of fictitious characters. But, in the present enlightened state of the public mind in England, this ancient rule is obsolete, or wholly disregarded, and the debate of every hour in Parliament is given out to the people in numberless daily journals.

But, Mr. Speaker, upon the whole evidence in this case, there remains not a doubt that it was the speech of the member from Ohio in debate upon this floor, that was the cause, the true cause of the outrage committed upon him by the accused, and that fact concludes the subject.

Mr. DICKSON, of New York, said: The respondent is charged with a breach of the privileges of the House, by an assault and battery on the member from Ohio, (Mr. STANBERRY,) for words spoken by him in debate on this floor. I consider the charge as admitted by the respondent at the bar. Independent of the response of the accused, I consider the charge as proved by the note addressed to the member from Ohio. The member was not asked whether the remarks in the Intelligencer were true, but whether those remarks were an accurate report of his speech.

What more? The remark of the accused to his friend from Tennessee, when advised not to

make the assault in this House, that he would

> —— "right the wrong wherever given,
> E'en if 'twere in the court of heaven,"

proves, conclusively, that the assault and battery were for words spoken in debate on this floor, and not for the publication of the speech in the Intelligencer.

The counsel for the accused urged, in his defence, that it was not the speech, but the note from the member from Ohio, that occasioned the assault. Was that true? Was there any thing in that note insulting to the accused? Was there any insult to the friend of the accused from Tennessee? That friend swears that he was doubtful, that he consulted his friends, that they advised him, and his own judgment confirmed their decision, that there was no indignity offered by the note to the accused, or his friend; that he so informed the accused, who was satisfied with such judgment of his friend, and the judgment of the common friends of both. The note, then, contained no insult to the accused; and I consider the charge as fully proved, that the assault and battery were for words spoken in debate on the floor of this House.

But I shall assume a still broader ground. The counsel for the accused triumphantly asked, whether, if an assault and battery were committed on a member, and he was disabled, not while on his way to or from his boarding-house, but in going to see other members on business in relation to the discharge of his duties as such member, it would be a breach of privilege. I contend that it would, and that an assault and battery committed on a member, during the session of Congress, with or without cause, would be a breach of privilege, as decided by the late Chief Justice Parsons, and the other judges of the Supreme Court of Massachusetts.

The accused has, then, been guilty of a breach of the privileges of this House, and rendered himself liable to arrest and imprisonment by its order; shown by elementary writers in the repeated decisions of both Houses of Parliament since 1550, and by the decisions of the Courts of Common Pleas, King's Bench, Exchequer Chamber, all the judges, and the House of Lords sitting as a court of error in England. In the fourth year of Edward the Sixth, 1550, one Withrington was committed to the Tower for an assault on one Brandling, a burgess of Newcastle. (8 St. Trials, p. 9.) Williams threatened and assaulted Bainbrigg, a member of the House of Commons; a complaint was made, a warrant was instantly issued, and Williams was brought to the bar of the House, examined, convicted of a breach of the privileges of the House, and imprisoned. (1 Hatsell, 92.) Without fatiguing the House with a recital of similar cases, more than fifty of which are referred to on my minutes before me, suffice it to say, that, from the middle of the sixteenth century to the present time, as appears by the journals of the House of Commons, assaults and batteries on members of the House, in the streets of London and Westminster, have been deemed, adjudged, and punished as breaches of the privileges of the House.

Such proceedings were adopted and sanctioned, during the same period, by the House of Lords, in analogous cases. Not only assaults and batteries by individual, lawless violence, but the arrest and imprisonment of the members of either House of Parliament, by the officers of justice, and by order of the courts of England, except for treason, felony, and breach of the peace, have, during the same period, been deemed a breach of the privileges of the House. They have arrested and punished the individual who sued out the process, and the officers who made the arrest. They have arrested the sheriffs of Middlesex for a contempt and breach of privilege, for refusing obedience to an order of the House directing them to set at liberty a member in their custody. The House of Commons have appointed a committee to enforce obedience to their order, and to set at liberty, by force, a member of their House arrested by the officers of justice, and by virtue of the process of the courts. Not only has the arrest of a member of the House by the officers of justice, but by order of the privy council, and even of the King himself, been considered and adjudged a breach of the privileges of the House. Mr. Strickland, a member of the House of Commons, was arrested by order of the privy council of Queen Elizabeth, 14th April, 1576, for introducing a bill into the House of Commons to reform the book of common prayer, and for words spoken in debate in relation thereto. This was the first attempt to abridge the freedom of debate in England, and justly awakened and aroused the indignation of the House of Commons and the people.

Yelverton introduced the subject to the attention of the House in the indignant language of a freeman, and with a boldness and manly independence becoming a statesman and a member of Parliament. The privy council were alarmed; some of them whispered to the Speaker, and a motion was made, and further proceedings adjourned until next day. The member was released from imprisonment, and appeared in his seat, at the opening of the House, the next morning.

James I. (June, 1621) imprisoned Sir Edwyn Sandys, of the House of Commons, for words used in debate. The House appointed a committee to wait on him, and ascertain the cause of his detention. They denied the King's right to imprison. The King wrote to the Speaker, "severely reprobating those fiery and popular spirits of some of the House of Commons, who had presumed to argue and debate publicly of matters far above their reach and capacity, tending to our high dishonor and breach of prerogative royal," and added, "We think ourselves very free and able to punish any man's misdemeanor in Parliament, as well during their sitting as after, upon any man's insolent behavior there."

In relation to said remarks of the King, Mr. Crew, in the House of Commons, asserting and maintaining the privileges of the House, said, "If we should yield our liberties to be but of grace, these walls, that have known the holding of them for so many years, would blush." James the First, in the language of the historian, "was an arbitrary monarch, wishing to trample on the rights and liberties of the people." In the fifth year of Charles I., Sir John Elliot, Denzil Hollis, and Benjamin Valentine were indicted, tried, and convicted, for words spoken by them in debate in the House of Commons, and sentenced to pay fines and be imprisoned. Such proceedings were condemned by the House of Commons, and adjudged a breach of their privileges.

"Every obstruction in their (the House of Commons) duties, by a stranger, by assaulting, challenging, or insulting any single representative of the House of Commons, has, from the middle of the sixteenth century downwards, been justly deemed a breach of privilege, and an offence against the whole body." (Hallam's Constitutional History, p. 358.) "I understand it to be clearly part of the law and custom of Parliament, that each House may inquire into and imprison for breaches of privilege, and that an assault on members is a breach of privilege." (Hargrave's, Jurid. Argument, vol. 2, p. 183. 1 Chitty's Blackstone, p. 164, &c. &c., and Chitty's Notes. 8 State Trials, 23. 4 Inst., fol. 50.)

The power to arrest and punish for breaches of privilege is so clear, that all the judges of England have, for more than two centuries, disclaimed all power and all jurisdiction to discharge on *habeas corpus* a person thus committed by the House of Commons, or to inquire into the cause of the commitment. And this rule was adopted as well in relation to the Lord Mayor of London, and the nobles of the land, as the commoner. In support of this assertion, I will only refer to the case of the Earl of Shaftesbury, in 1677. (6 State Trials, 1270. 8 St. Trials, p. 30.) The Aylesbury men. (2 Ld. Raymond's Rep., 1105.) Case of Alexander Murray, in 1751. (1 Will. Rep., 299.) Flower's case. (8 Term. Rep., 328.) And the case of Brass Crosby, Lord Mayor of London, in 1771. (3 Willson's Rep., 188.)

About the year 1810, Sir Francis Burdett was committed to the Tower for a breach of the privileges of the House of Commons. He brought his action in the Court of King's Bench against Sir Charles Abbott, the then Speaker of the House of Commons, and declared against him in trespass for assault and battery, and false imprisonment. The defendant pleaded, in justification, the proceedings and order of the House of Commons, and his warrant issued in pursuance of such orders, to commit the plaintiff to the Tower. To this plea the plaintiff demurred. The case was argued by Mr. Holroyd, at very great length, for Sir Francis Burdett. In his argument, he reviewed all the cases in England.

Lord Ellenborough, Chief Justice, in delivering his opinion, in like manner, reviewed all the adjudged cases, the history and the privileges of Parliament, and overruled the demurrer, in which decision all the judges concurred. (14 East's Rep., p. 1.) The cause was carried by Sir Francis to the Court of Exchequer Chamber, and there argued by other counsel for the plaintiff, when Mr. Mansfield, the then Chief Justice of the Common Pleas, delivered the unanimous opinion of the court, confirming the decision of the King's Bench. (4 Taunt. Rep., p. 401.) The cause was then carried by Sir Francis, by writ of error, to the House of Lords. And there, as a last effort, he availed himself of the extensive learning and exalted talents of Lord Brougham, the present Chancellor of England. When Lord Brougham had finished his long and able argument, the defendant's counsel was stopped by Lord Eldon, and, after a brief opinion delivered by Lord Erskine, the House of Lords unanimously affirmed the decision of the Courts of King's Bench and the Exchequer Chamber. (5 Dowe's Par. Rep., 165, 199.) Arrests and imprisonments were then adopted by both Houses of Parliament, for the last three centuries, for breach of the privileges of either House by members or by strangers, in restraint as well of the officers of the court, and the insolence and tyranny of the royal prerogative and power, as of individual lawless violence, sustained by all elementary writers, and all the judges of England. Among those judges were Sir Michael Foster, the popular judge, the advocate and firm supporter of the rights and liberties of the people; and Sir Matthew Hale, who had collated the laws and constitutions of all countries and all ages, the ermine of whose robes was never soiled by meanness or injustice, whose whole life was pure as the dews of Hermon, and whose integrity and entire character was a noble eulogy on human nature, and added dignity to man. Among the members of Parliament who sustained the principles for which I contend, was William Pitt, the elder, Earl of Chatham, *venerabile nomen*. Edmund Burke, the friend of freedom, of this country in her revolutionary struggle, of oppressed Ireland, and the oppressed in India, in whose works, with some political heresies, are more general maxims in politics and morals, founded on a thorough knowledge of history and human nature, useful to the statesman, and adapted to all times and all countries, than are to be found in the works of any other author; a man who drew his metaphors and illustrations from all nature, and every art and science; whose feelings were ardent, the visions of whose fancy were bright, whose genius, cultivated, polished, refined, awakened, soothed, instructed, aroused, inspired, was penetrating as electric fire, and bright as the lightning's flash, and whose path was splendid as the galaxy of heaven. With him were the younger Pitt, Sheridan, Erskine, and Fox, splendid luminaries, which threw into the shade

and eclipsed all the other and minor lights of the country, if not of the age, in which they lived.

The power to commit and to punish for the breach of the privileges of this House is also shown by analogous cases in, and by the practice and proceedings of, this House. Under the articles of confederation, and in the Congress of 1777, it was by the House "Resolved, that Gunning Bedford has been guilty of a high breach of the privileges of this House, in sending a challenge to one of its members for words spoken by him in this House in the course of debate." In December, 1795, on information given by Messrs. Smith, Murray, Giles, and Buck, then members of the House, Robert Randall and Charles Whitney were arrested by the Sergeant-at-Arms, and by order of the House, for "a contempt to, and breach of the privileges of this House, in an unwarrantable attempt to corrupt the integrity of its members." Witnesses were examined at the bar of the House, and the said Robert Randall was adjudged guilty, by a vote of seventy-eight to seventeen. Among those who voted in the affirmative, with many other distinguished names, are the names of Henry Dearborn, William Findley, Albert Gallatin, William B. Giles, Samuel Smith, now in the Senate, and Edward Livingston, the present Secretary of State.

During the same session of Congress, and in March, 1796, Mr. Madison, late President of the United States, from the Committee on Privileges, reported that James Gunn, and Frederick Frelinghuysen, Senators, were guilty of a breach of the privileges of the House, in sending and bearing a challenge from said Gunn to Mr. Baldwin, a distinguished member of the House from Georgia; but from letters addressed to the committee, and reported to the House, containing satisfactory apologies and acknowledgments, any further proceedings were deemed unnecessary, and such report was adopted without a division. These two cases occurring but a few years after the adoption of the constitution, while the sages who framed that instrument yet lived, contain an express recognition of the power to arrest and to punish.

In 1828, one Russel Jarvis committed an assault upon the private secretary of the late President Adams, in the rotundo of the capitol, immediately after he had delivered a Message from the President to the House, and while he was proceeding with another Message to the Senate. A committee was appointed to investigate the subject, a majority of whom reported that the assault was an act done in contempt of the authority and dignity of the House, involving a violation of its own peculiar privileges." That "if the representatives of the people have not the power to punish an assault committed under these circumstances, then are they destitute of a power which belongs to the most inferior judicial tribunal in the country. The power of punishing for contempt is not peculiar to the common law of England; it belongs essentially to every judicial tribunal, and to every legislative body. The English law of contempts, as such, has not surely the slightest authority in the Supreme Court of the United States, yet the power of that court to vindicate its dignity, and preserve its officers from outrage during its session, will scarcely be questioned. In like manner, although the Parliamentary law of England, as such, can have no authority," that is, no binding influence, "here, yet all the legislative bodies in the Union act upon its rules. The power in question grows out of the great law of self-preservation." The committee reported one resolution, declaring the said Jarvis guilty of a breach of the privileges of, and meriting the censure of the House, and, for reasons stated in the report, another resolution, that it was not expedient to have any further proceedings in the case. They also stated there was but a bare majority of the committee in favor of the second resolution, the minority believing that it was expedient to vindicate the dignity of the House, by inflicting some punishment for the violations of its privileges. Much reliance has been placed by some on the report of the minority of that committee. When it is ascertained that at one moment they insisted the House had no power to punish, and in the next contended that the House, to vindicate its dignity, without authority, and in defiance of all law, should punish the accused, it is cheerfully submitted to the House to say in what spirit the minority report was made, and to how much consideration it is entitled. The power contended for then, is sanctioned by the Legislatures of the several States of the Union, by the proceedings and practice of this House under the articles of confederation, and under the present constitution of the United States, for more than fifty years, approved by the judicial decisions of the superior courts of many of the States, and by the Supreme Court of the United States.

The power to commit and to punish for a breach of the privileges of the House is, in the present instance, shown also by a fair interpretation of that part of the sixth section of the first article of the Constitution of the United States, which provides that members of Congress "shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses, and in going to and returning from the same; and for any speech or debate in either House they shall not be questioned in any other place."

Did the framers of the constitution intend to secure the persons of members from arrest and imprisonment, and yet leave them subject to individual lawless violence? Did they intend to take from the courts and their officers the power to arrest by law, and yet give authority to individuals to beat with clubs, wound, maim, and entirely disable members of Congress from serving their constituents or their country?

Did they intend to forbid that members should be questioned for words spoken in de-

bate in either House, and yet permit them to be knocked down in silence, and their lives endangered? Did they intend that, as to members of Congress, society should be resolved into its first principles, where strength and power give right, and the weakest is compelled to yield to the strongest?

The power to commit and to punish for a breach of the privileges of this House is also shown, justified and proved by necessity, the great principles of public policy, the preservation of freedom of debate, the independence of members, and the liberty of the citizen. The right and the power are as beneficial and indispensable as they are ancient and established. "Such power is a necessary protection against lawless violence and the insolence of power; the majority are bound to respect, and indeed have respected, the rights of every member, however obnoxious to them, on all questions of privilege." (3 Hallam's Constitutional History, p. 358.)

Would to God that were the case here, that every one could and would feel that an insult, or a wrong done to an individual member, "however obnoxious," was a contempt and violation of the honor and dignity, the rights and privileges of the whole House!

Lord Erskine, in delivering his opinion in the House of Lords, in the case of Burdett, said: "The House of Commons, like every other tribunal, must have the power to protect itself from obstruction and insult, and to maintain its dignity and character. If the dignity of the House is not maintained, its sun is set, never to be lighted up again." Such power has often been said to be "one of the most important safeguards of the rights and liberties of the people." It was said by Lord Coke that "the liberties and privileges of Parliament are the very heart-strings of the commonwealth."

Lord Ellenborough, late Chief Justice of England, in delivering his opinion in the case of Sir Francis Burdett, remarked, "I have said that, *a priori*, if there were no precedents upon the subject, no legislative requisition, no practice or opinions in the courts of law, recognizing such an authority, it would still be essentially necessary for the Houses of Parliament to have it; indeed, that they would sink into utter contempt and inefficiency without it. Could it be expected that they should stand high in the estimation and reverence of the people, if, whenever they were insulted, they were obliged to wait the comparatively slow proceedings of the ordinary courts of law for their redress? They certainly must have the power of self-vindication and self-protection in their own hands." The like opinions were entertained and expressed by the Supreme Court of the United States, in the case of Anderson, in relation to the power and authority of both Houses of Congress. Again, it was said by Judge Platt, in delivering his opinion in the court of errors in the State of New York, in the case of Yates *vs.* Lansing, "that the right of punishing by summary conviction is inherent in all courts of justice and legislative assemblies, and is essential to their protection and existence. The experience of ages has demonstrated that the power is perfectly compatible with civil liberty, and auxiliary to the purest ends of justice." The far-famed, the liberal, and the enlightened Charles James Fox, in the House of Commons, in the case of John Reeves, said, "he called upon the House to come forward in the vindication of their privileges, their dignity, and their existence," and called the privileges of the House "The Code of Liberty." Not only is such power supported and sustained by the authority of illustrious names, and by the opinions and wisdom of illustrious men, but it is respectfully submitted that it strongly commends itself to the sober judgment and sound common sense of mankind. It is the remark of an able statesman and distinguished jurist of Great Britain, that "Government rests in a great degree on public opinion; and that, if ever the time shall come when factious men will overturn the Government of the country, they will begin their work by calumniating the courts of justice, and both Houses of Parliament." So in this country, if factious men shall ever destroy our constitution, and overturn our happy form of Government, they will begin their work by calumniating the Supreme Court of the United States and both Houses of Congress, and by denying to them those powers necessary for their self-preservation and their very existence. Without such power, the two Houses of Congress, to all honorable, to all useful purposes, must cease to exist. If they have no power to restrain violence, and must suffer their members to be beaten in the streets like dogs, they will soon become contemptible. If their members may be wounded, maimed, and disabled, and yet they have no power to punish, majorities in the House may be changed, bills of vital interest to the whole country may be defeated, bills the most tyrannic and unjust may be passed; minorities may legislate for, and in the House of Representatives, give Presidents to the people, and thus destroy the primary maxims and first principles of republican Government.

The two Houses might be left without even a quorum of members for the transaction of business; the timid and the weak would give place, in the Halls of Congress, to the strong, the athletic, and the bold; age, and the wisdom of years of experience, would give place to the youthful, the middle aged, and the vigorous; eloquence would be mute, the energies of mind would be palsied, and all manly independence and nobleness of soul would be lost. To prevent such deplorable consequences, the necessity of the power contended for has been acknowledged and exercised in all legislative assemblies, ancient and modern, in the rudest as well as the most polished ages; in the republics of Greece, Rome, and Venice, among the an-

cient Germans, and in the Parliaments of Paris. Such power is sustained by the laws of nature, self-defence, and self-preservation, as explained and enforced in the writings of Puffendorff and Grotius, and declared by Justice Johnson, in the case of Anderson, to be inherent in, and to exist from necessity in this House. If we have no privileges, or if we have privileges, and are without the power to enforce them, how miserable, how helpless is our situation! We are every moment exposed to individual lawless violence and the assaults and attacks of power. Exercising a high constitutional, inquisitorial power over all the civil officers of the Government, from the highest to the lowest, and a power to present for trial by impeachment for high crimes and misdemeanors, it is vastly important to the pure administration of the Government, the exposure of fraud and corruption, and the preservation of the rights, liberties, and lives of the people, that the members of this House should be left free to act, unbiassed and unawed by bribes, by flattery, by fear, by violence, or by the denunciations, threats, or insolence of Executive power. The freedom of action in this House once destroyed, there is no barrier between the people and arbitrary power.

When Mr. D. concluded it was nine o'clock; the House manifested much impatience, and the Hall resounded with cries for the question.

Mr. EVANS, of Maine, demanded that it be taken by yeas and nays; which was ordered.

The following resolution, introduced by Mr. HARPER, was then read:

"*Resolved*, That Samuel Houston, now in custody of the Sergeant-at-Arms, should be forthwith discharged."

And then the following substitute, proposed by Mr. HUNTINGTON:

"That Samuel Houston has been guilty of a contempt and violation of the privileges of this House."

And the question being on agreeing to the substitute, it was decided by—yeas 106, nays 89.

So Mr. HUNTINGTON's amendment was adopted.

The resolution of Mr. HARPER, as amended by Mr. HUNTINGTON, was then agreed to.

Mr. CLAY now offered his former amendment, in the form of a resolution.

Mr. HUNTINGTON thereupon moved the following as an amendment of Mr. CLAY's resolution:

"That Samuel Houston be brought to the bar of the House on Monday next at twelve o'clock, and be there reprimanded by the Speaker for the contempt and violation of the privileges of the House of which he has been guilty, and that he be discharged from the custody of the Sergeant-at-Arms.

"That Samuel Houston be excluded from the exercise of the privilege conferred by the 13th standing rule of the House." [This rule confers the privilege of admission on the floor of the House on all who have at any time heretofore been members of either House of Congress.]

The question being about to be put on Mr. HUNTINGTON's resolutions,

Mr. CLAY demanded a division of the question.

The question was then stated to be on the first branch of the amendment, which was in the following words:

"That Samuel Houston be brought to the bar of the House on Monday next, at twelve o'clock, and be there reprimanded by the Speaker for the contempt and violation of the Privileges of the House of which he has been guilty, and that he be discharged from the custody of the Sergeant-at-Arms."

The question was then put on Mr. HUNTINGTON's first amendment, (for a reprimand,) and decided by yeas and nays as follows—yeas 106, nays 89.

So the resolution was agreed to.

The question then came up on the second resolution, (for excluding from the privileged seats.)

The question was then taken on the second resolution, and decided by

YEAS.—Messrs. Adams, C. Allan, Allison, Appleton, Armstrong, Arnold, Babcock, Banks, John S. Barbour, Barnwell, Barringer, Barstow, Isaac C. Bates, Briggs, Bullard, Burges, Cahoon, Choate, Coke, Collier, Lewis Condict, Silas Condit, E. Cooke, Bates Cooke, Corwin, Coulter, Crane, Creighton, Daniel, John Davis, Dearborn, Denny, Dickson, Doddridge, Ellsworth, George Evans, Joshua Evans, Edward Everett, Horace Everett, Felder, Grennell, Griffin, Heister, Hodges, Hughes, Huntington, Ingersoll, Irvin, Jenifer, Kendall, Kerr, Letcher, Marshall, Maxwell, Robert McCoy, McDuffie, McKay, McKennan, Mercer, Milligan, Newton, Pearce, Pendleton, Potts, Randolph, John Reed, Root, Russel, Semmes, William B. Shepard, Slade, Southard, Spence, Stewart, Storrs, Sutherland, Taylor, Tompkins, Tracy, Vance, Verplanck, Vinton, Washington, Watmough, Wilkin, Elisha Whittlesey, Frederick Whittlesey, Wickliffe, Williams, Young.—90.

NAYS.—Messrs. Alexander, Robert Allan, Anderson, Angel, Archer, Ashley, James Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Bouck, Bouldin, John Brodhead, John C. Brodhead, Bucher, Burd, Cambreleng, Carr, Carson, Chandler, Claiborne, Clay, Clayton, Conner, Craig, Crawford, Davenport, Dayan, Dewart, Doubleday, Drayton, Duncan, Fitzgerald, Ford, Foster, Gaither, Gilmore, Gordon, Thomas H. Hall, William Hall, Hammons, Harper, Hawes, Hawkins, Hoffman, Hogan, Holland, Horn, Hubbard, Ihrie, Jarvis, Jewett, R. M. Johnson, Cave Johnson, Charles C. Johnston, Kavanagh, John King, Henry King, Lamar, Lansing, Leavitt, Lecompte, Lent, Lewis, Lyon, Mann, Mardis, Mason, McCarty, William McCoy, McIntire, Thomas R. Mitchell, Muhlenberg, Newnan, Nuckolls, Pierson, Pitcher, Plummer, Polk, Edward C. Reed, Rencher, Roane, A. H. Shepperd, Smith, Soule, Speight, Standifer, Stephens, Francis Thomas, Philemon Thomas, Wiley Thompson, John Thomson, Ward, Wardwell, Wayne, Weeks, Wheeler, Worthington.—101.

Mr. JENIFER and Mr. KERR offered further amendments, going to confine the exclusion to

the present session of Congress, but withdrew them; and the question was finally taken on the resolution as amended, and decided by yeas and nays as follows—yeas 96, nays 84.

MONDAY, May 14.

Case of Samuel Houston.

The CHAIR having announced the expiration of the hour,

Mr. ARCHER said that before Samuel Houston should be put to the bar, he had a paper which he wished to tender to the House in behalf of the accused. It contained what the accused believed he had a right to state orally to the House; but the deep respect he felt for this body had induced him first to submit it in writing, and obtain permission to offer it at the bar. The paper was drawn up in the most respectful language.

Mr. BURGES inquired of the Chair what was before the House.

Mr. ARCHER said, a motion, which would immediately be offered, viz., that the accused have liberty to read the paper to which Mr. A. referred, when he should be placed at the bar of the House to receive the rebuke which the Speaker had been ordered to administer.

After some desultory conversation, the paper was read at the Clerk's table, as follows:

To the honorable the House of Representatives of the United States:

The accused, now at the bar of the House, asks leave respectfully to state—

That he understands he is now brought before the House to receive a reprimand from the Speaker, in execution of the sentence pronounced upon him.

Was he to submit in silence to such a sentence, it might imply that he recognized the authority of the House to impose it.

He cannot consent that it shall be thus implied. He considers it a mode of punishment unknown to our laws, and if not forbidden by the prohibition of the constitution against "unusual punishments," yet inconsistent with the spirit of our institutions, and unfit to be inflicted upon a free citizen.

He thinks proper to add, in making this declaration, that he has been unwilling to trouble the House.

That though he believes the whole proceeding against him, as well as the sentence he now objects to, unwarranted by the constitution of his country, yet circumstances may exist to justify or excuse a citizen in determining (as he has done on this occasion) to suffer in silent patience whatever the House may think proper to enforce.

SAMUEL HOUSTON.

May 14.

Mr. ARCHER then moved that when the accused should be brought to the bar, he be permitted to tender this paper, and that it should be entered on the journal of the House as part of the trial.

Mr. E. EVERETT demanded a division of the question upon this motion; upon which

Mr. ARCHER withdrew, for the present, the latter clause, and the first part of the resolution was agreed to.

Samuel Houston was now put to the bar, and informed by the Speaker that he had liberty to present the paper above referred to.

The accused then presented the paper, and it was again read by the Clerk.

The Reprimand.

The SPEAKER then pronounced the reprimand required by the vote of the House, for the contempt of the House, and breach of privilege thereof, committed by General Houston, in the following words:

Samuel Houston: You have been charged with a violation of the rights and privileges of the House of Representatives, in having offered personal violence to one of its members for words spoken in debate. In exercising the high and delicate power of ascertaining and vindicating their own privileges, the House have proceeded throughout this investigation, and in relation to your individual rights, with all that deliberation and caution which ought to characterize the dignified and moral justice of such an assembly.

You have been heard in person in your defence; you have been ably and eloquently defended by eminent counsel, and every facility afforded you to place your cause fully and fairly before the House, and to urge upon its consideration matters of principle as well as of fact, in explanation and justification of your conduct.

Whatever the motives or causes may have been, which led to the act of violence committed by you, your conduct has been pronounced, by the solemn judgment of the House, to be a high breach of their rights and privileges, and to demand their marked disapprobation and censure.

If, in fulfilling the order of the House, I were called upon, as its presiding officer, to reprimand an individual uneducated and uninformed, it might be expected that I should endeavor, as far as I was able, to impress upon him the importance and propriety of sedulously guarding from violation the rights and privileges secured to the members of this House by our invaluable constitution. But, when addressing a citizen of your character and intelligence, and one who has himself been honored by the people with a seat in this House, it cannot be necessary that I should add to the duty enjoined upon me, by dwelling upon the character or consequences of the offence with which you have been charged and found guilty. Whatever has a tendency to impair the freedom of debate in this House—a freedom no less sacred than the authority of the constitution itself, or to detract from the independence of the representatives of the people, in the rightful discharge of their high functions, you are no doubt sensible, must, in the same proportion, weaken and degrade not only the Legislature of the nation itself, but the character of our free institutions.

Your own mind will suggest to you, no doubt, more suitable reflections than any thing which I can say could convey. To those reflections I am prepared to trust, not doubting that, had you at the time considered the act of violence which you have committed, in the light in which it has been regard-

ed by the House, you would have been spared its disapprobation and censure, and I the duty of declaring to you the result of it.

I forbear to say more than to pronounce the judgment of the House, which is, that you have been guilty of a high breach of its privileges, and that you be reprimanded therefor, at its bar, by the Speaker; and, in obedience to the order of the House, I do reprimand you accordingly.

You will now be conducted from the bar of the House, and discharged from the custody of the Sergeant-at-Arms.

Mr. ARCHER now moved that the paper presented by the accused be entered on the journal of the House.

Mr. EVERETT having withdrawn his objection, the motion was agreed to.

Bank of the United States.

Mr. ADAMS, as a member of the Committee of Investigation, made a separate report on the affairs of the Bank of the United States, accompanied by sundry documents, which were ordered to be printed.

On motion, 10,000 copies of all the reports on this subject were ordered to be printed.

TUESDAY, May 15.

Death of the Representative, Jonathan Hunt, Esq.

Soon after the journal of yesterday was read, Mr. EVERETT, of Vermont, rose, and addressed the House as follows:

Mr. Speaker: It has become my painful duty, on behalf of my colleagues, to announce to this House the death of one of their number, the honorable JONATHAN HUNT. On this occasion, I may be permitted to say that he has long been a member of this House, and that the talents and assiduity with which he executed his duties in this place were alike honorable to himself, to this House, and to his constituents. I have known him long, I have known him well; and a purer spirit never inhabited mortality. His place in this House may, indeed, be filled, but the void in the affections of his family, and of his friends, can never be filled.

Mr. E. then submitted the following resolution:

Resolved, That the members of the House will testify their respect for the memory of JONATHAN HUNT, deceased, late a member of this House from the State of Vermont, by wearing crape on the left arm for the remainder of the present session of Congress.

The resolution was unanimously agreed to.

Mr. EVERETT then said that, in deference to the expressed will of the deceased, and the wishes of his family and friends, that the funeral of the deceased should be private, he should forbear to offer any further resolution.

Mr. E. EVERETT rose, and said, as it was the usual practice for the House, upon every occasion of this melancholy nature, to testify their regret by some mark of respect, he would therefore move that the House do now adjourn.

On this motion, several gentlemen addressed the House; and after considerable discussion as to the most appropriate mode of paying respect to the deceased, it ended in the following committee, viz., Mr. H. EVERETT, Mr. CAHOON, Mr. SLADE, Mr. E. EVERETT, Mr. TAYLOR, Mr. CHOATE, and Mr. L. CONDICT, being appointed to superintend the ceremonies to be used at the funeral, which the House resolved should be attended by the Speaker, officers, and members, as was usual in similar cases.

A motion of adjournment till Thursday then prevailed, with an understanding that the members would meet in the Hall this day at three o'clock, to form in procession to attend the funeral.

The House then adjourned to Thursday.

TUESDAY, May 22.

Silk Culture.

On motion of Mr. ROOT, the House went into Committee of the Whole, Mr. BARRINGER in the chair, and took up the bill to promote the culture and manufacture of silk.

Several verbal alterations were agreed thereto; and an amendment, that the appropriation of $40,000, to be given to Mr. Duponceau for the purposes mentioned in the bill, should be paid as follows: on the passing of the bill, $10,000; on the 1st March, 1833, $20,000; on the 1st March, 1834, $10,000—was also agreed to.

Mr. POLK moved to strike out the enacting clause of the bill.

The question was then put on the motion of Mr. POLK, and decided in the negative—yeas 49, nays 68.

The committee then rose, and reported the bill without amendment.

WEDNESDAY, May 23.

Culture of Silk.

The House, on motion of Mr. ROOT, took up the bill for the encouragement of the culture of silk.

Mr. POLK asked if it would be in order to renew the motion to strike out the enacting clause. He wished to do this, with a view of testing the sense of the House on this novel and important question.

The SPEAKER said that it was in order.

Mr. POLK then submitted the motion. He observed that the House was called upon to make an appropriation of forty thousand dollars —for what? he would ask. Why, nothing upon earth. With respect to the institution which it was proposed to establish, sixty young men were to attend it at their own expense, and even pay their own travelling expenses. Mr. D'Homergue was to receive the sum he had stated for instructing them in weaving silk. It was said that the sum was necessary, in order that

he might procure fixtures and other necessary articles. At the end of three years, that gentleman was to receive the money, whether he instructed any one pupil or not; whether the pupil derived any benefit or not from his instruction. Laying out of view the constitutionality of establishing this institution, it was, he thought, a monstrous proposition. Was there any young man who could go to this silk-weaving school, who would not go to college? If he was able to bear the expenses of attending this school, he was able to be admitted into the best college in the United States, and acquire a good education. For his part, he saw no use in voting away forty thousand dollars. It was the most singular proposition he ever remembered to have heard. Mr. P. concluded by calling for the yeas and nays, which were ordered.

Mr. COKE, of Virginia, said that when gentlemen were called upon to show by the constitution their plea for asking an appropriation of this kind, they claimed to derive their right from the regulation of commerce; but they had not as yet satisfied his mind as to the power which was set up. It had been yesterday attempted to be justified by the establishment of other institutions; so that, if encroachments had been heretofore made on the constitutional power, that was to serve as a reason for making the appropriation. At this moment, when a strong excitement existed in their country, which was most universal, there was a claim made upon it to give encouragement to industry, in a mode never before thought of, and for the exclusive benefit of a single individual, who was to give an academic education to sixty young men, recommended by the Governors of the several States. It was, indeed, the most ridiculous project he had ever heard of. Mr. C. next combated this attempt to force the country into an unnecessary expense, and said there were about sixty-two individuals who did little else than see the money of their constituents appropriated most liberally, in order to cherish the interests of another section of the country. The people he (Mr. C.) had the honor to represent, saw it and knew it; and he would ask gentlemen now to pause upon the brink of the Rubicon.

Mr. JENIFER stated the reasons which had led to the reporting of the bill, and, after reciting the former introduction of a similar measure, said, in reference to the objections made to it by the gentlemen from Tennessee and Virginia, (Mr. POLK and Mr. COKE,) that the same ground of unconstitutionality was taken on a variety of other bills, and, in fact, every act that did not meet the particular views of some gentlemen, was opposed as unconstitutional. He referred to the anxiety felt the last session for the passage of this bill, and to the circumstance, in proof of it, that an application, signed by ninety-one members of Congress, had been made to Mr. D'Homergue, requesting him not to quit this country, but to remain and wait for the action of Congress during the present session. He went on to argue upon the details of the bill, which, he observed, left it in the discretion of the President to arrest the progress of the establishment, if its advantages should not be such as would justify the expenditure of the forty thousand dollars to be appropriated. In reply to the remarks of Mr. POLK, he said that it was not incumbent or compulsory upon a State to send young men to acquire the art, and to pay the expenses of their journey to Philadelphia or any other place for that purpose. The bill only held out the advantages to those who might be disposed to avail themselves of the opportunity which it presented of becoming acquainted with the best mode of raising a product which would undoubtedly become one of the first and most valuable staples of the country. Mr. J. concluded by giving an interesting sketch of the benefits which would result from an extension of this pleasing and useful art throughout the country.

Mr. WICKLIFFE asked whether, if the House were determined to go into this matter of the culture of silk, it would not be better to form a national establishment, and give a salary to the person to be employed for teaching the art. He wished the friends of the measure to look into, and reconsider the details of the bill which proposed to give forty thousand dollars to Mr. D'Homergue for the employment or tuition of sixty individuals, whether they might or might not choose to be employed or taught at all. Mr. W. related an anecdote on the subject of the bill. A former chairman of the Committee on Agriculture, he observed, had himself said he could not see the constitutional power to make the appropriation; but he replied, "Oh, give us the bill, and we will furnish the constitutional argument." Mr. W. went on to review the objectionable features of the bill, and appealed to the friends of domestic manufactures, (and he would take the occasion to say that he was a friend to a reasonable and proper protection of our manufacturers,) whether this bill, granting all the land, buildings, materials, implements, machinery, &c., purchased by the forty thousand dollars, and the profits that may accrue from its expenditure to this individual; under the arrangements proposed, ought to be passed at such a time as the present. Mr. W. adverted to the approaching extinction of the public debt, and to the public anxiety for a diminution of the burdens of taxation. The eyes of the country, he observed, were fixed upon Congress, and yet they were now engaged in the discussion of a measure which, in its objectionable character, goes far beyond any project ever introduced into, or ever sanctioned by, that House. Mr. W. adverted, in conclusion, to the establishment of the Military Academy at West Point. He had intended, he said, if he had had time, to have redeemed the reputation of the departed saint, (Mr. Jefferson,) with whom that institution originated. Had that illustrious patriot been permitted to see how that academy was at present constituted, and to

sanction it, he might well have been accused of an abuse of the constitutional power. It was originally established by a congregation together of the junior officers of the army, who were to be instructed in the science of their profession by their senior officers. Ten junior officers, called cadets, assembled for this purpose, had formed the nucleus or seed from which had sprung up this growing excrescence—for a growing excrescence he would call it—upon our republican institutions. He earnestly remonstrated against going into such a measure at the present crisis, when it seemed to be agreed on all hands that measures of mutual conciliation were proper and necessary. He had gone far with the friends of the tariff and of internal improvement, but he could not go the length of this bill. He was like an individual in Virginia, who, when asked, during the revolution, whether he would go for "liberty or death," replied that he could not go so far as that, because, when he was dead, liberty would do him no good; but he would go as far as "liberty, or be crippled."

Mr. STEWART read extracts from a Message of General Washington to the first Congress under the constitution, in which he recommended granting the bounties, and other pecuniary aid, for the introduction of valuable improvements. He also quoted Alexander Hamilton for the same purpose.

Mr. WICKLIFFE now moved to recommit the bill to the Committee on Agriculture, with instructions to inquire into the expediency of establishing a filature at the public expense, and employing a superintendent with salary.

This motion was rejected without a count.

And the question then recurring on the motion of Mr. POLK to strike out the enacting clause of the bill, it was decided by—yeas 97, nays 71.

So the enacting clause was stricken ont, and the bill of course rejected.

THURSDAY, May 24.

Alexandria Canal.

The House proceeded to consider the bills relating to the District of Columbia; and the question being on the bill for the aid of the Alexandria Canal Company,

Mr DODDRIDGE offered an amendment to the bill, which he withdrew in favor of another presented by

Mr. J. S. BARBOUR, appropriating 100,000 dollars to the company, to be applied to the construction of an aqueduct over the Potomac, at or near Georgetown. Mr. B. briefly stated that the amount of direct tax which had been levied upon that part of the District lying south of the Potomac was more than 104,000 dollars. This money had been applied to the general purposes of the Union, and it was now, therefore, no more than equitable that that amount should be returned. for the use of the District, by Congress, which was its only local Legislature.

The amendment was agreed to—96 to 71.

The question then being on the engrossment of the bill,

Mr. LAMAR demanded the yeas and nays.

Mr. SPEIGHT moved a call of the House; but the motion was negatived, and the question on the third reading of the bill was carried—yeas 90, nays 78.

MONDAY, May 28.

Indian Missionaries Imprisoned in Georgia.

Mr. PENDLETON, of New York, presented to the House of Representatives a petition from sundry inhabitants of Dutchess county, in the State of New York, praying Congress to adopt the most speedy and effectual measures to enforce the judgment of the Supreme Court of the United States, in the case of the missionaries Worcester and Butler, imprisoned under a judgment of a State court in Georgia.

Mr. P. said this petition presented to the consideration of the House a question no less important, than whether the law of the land, adjudicated in the highest tribunal, shall furnish to American citizens a rule of action or not; whether there be known to the constitution two powers, the collisions of which are to be decided, not by law, but by war.

The Indian relations of the United States are, said Mr. P., in one sense, intimately connected with this question, but not as I shall consider it. Public men will probably differ in opinion upon the subject of those relations as long as the subject itself shall be remembered. The question is not now whether the Supreme Court have taken a correct view of those relations or not; it is not whether their decision be right, but it is whether they possess authority to make any decision at all. Neither shall I speak of the motives or conduct of the individuals in whose behalf we are petitioned to interfere. It has been said that they are fanatics. What then? Is this a question of religious enthusiasm, or of personal rights? I hesitate not to affirm that civil liberty owes as much to ecclesiastics as she owes to lawyers.

When the clergy of the Church of England had demonstrated the right of private judgment, and the natural independence of men in the formation of a religious belief, it was but a step to apply those same principles to a like independence in the affairs of Government and State; accordingly, we find, in the history of English liberty, that the names of Hooker and Chillingworth are commemorated on the same page with those of Hampden and Sydney. Sir, there is a greater example still. When the Apostle Paul stood in the presence of the Roman centurion, and they were binding him with thongs, he asked this little question: "Is it lawful for you to scourge a man that is a Roman, and uncondemned?" I ask you, Mr.

Speaker, is it lawful for you to imprison a man that is an American, and acquitted? Does it not occur to every man's mind to ask, how happens it in a Government of law, that the law is without authority?

The answer is, because it operates upon one of the sovereign parties to this compact.

Whether this answer be sufficient or not, whether it suits "the genius and the language of the system before us," is the question to be determined. When my attention was first directed to this subject, I found that all extolled the constitution, though few understood it alike; all spoke of its framers with reverence and respect. To them, then, I determine to make my appeal; in this appeal, Mr. Speaker, there is a peculiar fitness. As this constitution was offered to the people, so it was accepted; as it was explained, so it was understood; there was not one intent in those who gave, and another in those who received. This system, thus contrived, became, by adoption of the American people, a fixed and determined system. We may alter its terms, it is true; but while the terms remain, we cannot give them a new meaning. In relation to it, we stand in a very different situation from our ancestors—with them it was persuasion, to us it is authority—with them it was reason, but to us it is law. There exists, Mr. Speaker, a very striking difference between the old opponents of the constitution and the new; the former admitted it to be, in truth and in deed, what its friends intended to make it; but the new school insists that both the original parties were wrong; neither of them understood the true state of the case. Otherwise, Mr. Henry, for instance, and Mr. Wilson, should have changed sides; the former should have been for the constitution, and the latter against it; for this new school maintains the constitution to be that very thing, for not being which, Mr. Henry opposed it; and, on the other hand, maintains it to be that very thing, for not being which, Mr. Wilson supported it. So much wiser, Mr. Speaker, are the new whigs than the old.

I have alluded to a new school, and a new doctrine. What doctrine is this, which, as presenting a true theory of this Government, was expressly repudiated by all the leading men on either side in the federal and State conventions? The leading principle is, that the constitution is a compact between sovereign States.

From this position are drawn, for practice, two general inferences. One, that each of these sovereign parties possesses the right of final and independent interpretation; it is an incident inseparable from sovereign power, that the sovereign should, for himself, and in the last resort, determine the extent of his own engagements; the other is, that any of the sovereign parties may withdraw from the compact, if dissatisfied with the manner of its operation, or the mode of its observance. Now, sir, I deny the principle, and both the inferences. The constitution is not a compact, treaty, or alliance, between the Sovereign States.

There were submitted in the general convention two principal plans for consideration. I omit all notice of the third, which was proposed by General Hamilton, and of which Dr. Johnson said sbrewdly, that it was praised by everybody, and supported by none; it was like the hare with many friends—all gave it a good word as they passed by, but none took it up on their backs. Essentially, then, there were but two. One of these proceeded upon the idea of a compact between States; the other proceeded upon the idea of an institution of the people. These two systems were antagonist systems the one to the other. They continued throughout distinct and irreconcilable, and were never in that day for one moment confounded. Whoever supported the idea of a Government derived from the States, was opposed to the idea of a Government derived from the people; whoever patronized the principle of popular derivation, was hostile to a Government depending upon compact.

The ultimate decision of questions which may involve the whole Union in war, ought not to be left to the local tribunals; their judges are not responsible to the nation; we have no check upon them here by impeachment; and the President and Senate have no influence in their original appointment. I desire to be understood. I am for strict construction. No man is more hostile than I am to what are called latitudinarian principles. I do not contend that the national tribunals possess this power, because, from reasons of State, they ought to possess it. But I do contend, that when we resist an attempt to abridge a power, given in express terms, that then the propriety of exerting the power to the extent given, may, by reasons of State, be rightfully shown.

There are two objections which have been chiefly insisted upon. First, it has been said that the appellate power presupposes an inferiority in the State courts; and, secondly, that the words of the constitution are satisfied by confining this power to the inferior courts of the Union. Why, sir, this very strange delusion? The State courts are inferior; the condition supposed to be so indispensable, and withal so inconceivable, does really exist. Can any thing be plainer? What says the paper? "The constitution, laws, and treaties made, &c. shall be the supreme law of the land," and "the judges in every State shall be bound thereby, any thing in the constitution or laws of any State to the contrary notwithstanding." As for the second suggestion, the fact upon which alone it depends is not true: the words are not satisfied. With what propriety can this be said, when so common a contingency is excluded as the origin of the suit in the State court? Let this contingency happen in all cases, and the judicial power of the Government could never be brought to bear upon any case. Take, for instance, the given case of a treaty: if the

national court has not original jurisdiction, which it has not, nor appellate, which it is contended it has not, there is no jurisdiction at all; and this is the conclusion which is supposed to satisfy, as the phrase goes, the most comprehensive word in the language.

By this mode of reasoning, the jurisdiction of this august tribunal does not depend upon any original principles of Government or views of civil polity; you may not impute to it the conception of a great purpose ardently desired and exactly foreseen. Here are no traces of forecast, no evidences of design. It is not a point well ascertained and definitively fixed. On the contrary, all its powers are left to be determined by the result of a scramble between the courts, or by the whim of the suitor, who may select his own tribunal, and to that selection all other considerations must yield, whether derived from the genius of the Government, the language of the constitution, or the public welfare. The appellate power then exists in all the enumerated cases, whether of civil or criminal jurisdiction. There is no distinction in the letter—there should be none in the interpretation: amercements, imprisonments, hard labor, and death, are of more concern to the citizen than the consequences of any civil judgment.

A few words upon the measures which I have proposed to the House. It appears to be, upon the whole, the opinion of the profession, (it is certainly that of very eminent lawyers,) that the proviso in the fourteenth section of the judiciary act extends to the Supreme Court. By that proviso, writs of *habeas corpus* do not extend to prisoners in gaol, unless where they are in custody under, or by color of the authority of the United States. I am informed that in Cabrera's case this proviso was held to extend to the circuit courts of the United States. It is impossible to believe that it was ever intended to include persons confined in gaol in pursuance of a judgment erroneous upon a constitutional point. Such an idea is utterly inconsistent with the express language of the section, and the spirit of the whole act. My first proposition is designed to remove this inconsistency, and settle this doubt.

Upon the second proposition, when the Supreme Court reverses the judgment of a State court, the cause is, in the first instance, remanded for a final decision. If the court below obey, as they are bound to do, it is well: if not, the refusal to obey (such has been the practice) is regarded as error in the cause; and the refusal must appear on record. In no prior instance, if I am correctly informed, has any court refused to make such an entry. But in the case of these two missionaries, the court in Georgia has refused to make any entry upon the record at all. Hence, no second writ of error can be brought. Surely the House will never consent to suffer the public justice to be defeated by such a trick as this. It affords a strong illustration of the spirit by which an inferior court may be actuated. This remanding of the clause, in the first instance, is a very clumsy and unnecessary contrivance. It was originally a mere act of civility to the State court, and should never be allowed to obstruct, substantially, the operation of the law; and inasmuch as it seems, in this case, to have been perverted to that effect, I propose to repeal it.

I have thus, Mr. Speaker, delivered to the House my sentiments upon this important and delicate question. Influenced, as I have been throughout, by an unaffected desire to avoid offence, I have touched upon no topic, I have uttered no language which could alarm the pride of the State of Georgia, or excite the feelings of her representatives.

Perhaps, sir, I am not altogether to be justified for the cold and phlegmatic manner which I have forced myself to adopt. The House will remember that, at an early period of the session, I submitted certain resolutions, involving the very same principles and course of reasoning which I have here so feebly attempted to develop. It was not the pleasure of the House to devote any portion of its time to their consideration. When I had made up my mind to yield quietly to the pleasure of the House, my attention was again called to this subject, by my own constituents, who have manifested such a generous sympathy with these unfortunate missionaries. It has thus happened, Mr. Speaker, that an accidental opportunity has more contributed to the original purpose than my own careful designs.

Quod optanti Divum promittere nemo
Auderet; volvenda dies en attulit ultro.

I have nothing more to add than to express my earnest wish that the petition of my constituents may be granted, that the representatives of the American people will not be insensible to the great rights of personal liberty and the clearest dictates of constitutional law, and that we will not leave either our fellow-citizens, or the stranger within our gates, to the oppression of any local and subordinate power.

Mr. P. concluded by moving to refer the petition to a Select Committee, with instructions to inquire into the expediency of providing by law, that where the Supreme Court of the United States shall declare an act of imprisonment to be illegal, a *habeas corpus* may issue for bringing the person, so illegally imprisoned, before any judge of the Supreme or District Courts, and discharged, and also for repealing so much of the judiciary act as requires a case carried from a State court to the Supreme Court to be remanded for execution, and to authorize the Supreme Court to execute their own judgments.

The Tariff—Reduction of Duties—Expenses of the Government.

On motion of Mr. MCDUFFIE, the House went into Committee of the Whole on the state of

the Union, and took up the bill (reported by Mr. McD. from the Committee of Ways and Means) to equalize the duties on imports; when

Mr. MCDUFFIE rose, and said: I propose, sir, to submit some explanations, in addition to those already presented, in a different form, of the views and principles which induced the Committee of Ways and Means to report the present bill as an adjustment of the great subject of the tariff. I must, however, in the outset, candidly acknowledge that I have not the least glimmering of hope that any thing I may utter at this time, or which any human being can advance in this Hall, will induce the majority to adopt the measure now proposed, or any other measure founded on similar principles. Nay, sir, I am reluctantly compelled to go still further. Although I have been disposed to hope even against hope, that some providential coincidence of circumstances might yet intervene to incline the hearts of the majority to justice, and lead their deliberations to some propitious result, yet the developments and the experience of every day have rendered it more and more apparent that all such expectations are utterly vain and delusive. As to any adjustment of this great question, therefore, which shall give tranquillity to the public mind, and restore the broken harmony of this Union, "my final hope is flat despair." Under these circumstances, it may seem singular, but it is nevertheless true, that it is precisely because I do not hope to produce conviction upon the minds of this committee, and have no expectation that this great question will be adjusted here, that I am more particularly anxious to set forth, in the clearest and most distinct manner, the principles which will govern me, and, as I believe, those who are associated with me, as well as the State we in common represent, in all the vicissitudes of this great contest for our inalienable rights. Sir, it is vain, it is worse than vain, to attempt to put by, to evade, or to palter with this question. It can no longer be disguised that there does exist, under the unjust and oppressive legislation of Congress, and without any agency of Providence to that effect, a radical hostility of interests between the two great subdivisions of this confederacy. And if the power of the majority, and not their sense of justice, is to decide the present controversy, it will be impossible ever to reconcile these conflicting interests. Such being the case, God only knows what is to be the end of this great political drama. One thing is certain; an eventful political era is at hand, and whether it shall be signalized by the civil triumph, or by the catastrophe of constitutional liberty, history will record that triumph or that catastrophe, and posterity will pronounce judgment on the authors of it.

That my views and principles may be understood and appreciated by that august tribunal, and that the record which history shall make up may present the true issue between the two great contending parties, the oppressors and the oppressed, I will attempt, before I take my seat, to demonstrate how grievous are the wrongs we have too patiently endured, and how vital and sacred are the rights for which we are contending.

But, before I proceed to examine the inequality and gross injustice of this combined system of taxation and protection, I shall ask the attention of the committee to a brief exposition of my views as to the amount of revenue which, under existing circumstances, I deem it expedient to provide for defraying the necessary and proper expenses of this Government.

In deciding this question, there is no better criterion to which we can resort than the average expenditures of a former period, which all must acknowledge to furnish a proper basis for such a calculation. In 1821, our army was reduced from a war to a peace establishment. From the year following this reduction to the close of Mr. Monroe's Administration in 1824, inclusive, I have made a calculation of the average expenses of this Government for all objects, both permanent and contingent; and the result is, that these expenses amounted, annually, to a less sum than $10,000,000. Many of those who hear me will bear me out when I say, that, when I first took my seat in this body, I was regarded as very extravagant in my notions in regard to the public expenditure, because I justified the expenditures of that Administration. Sir, Mr. Monroe's Administration was denounced by a large party in this country for its extravagance. It was accused of preparing the way for a great and splendid Government, instead of regarding those principles of economy laid down by the fathers of our political church. I did not think so then, and I do not think so now; and I shall hail the day when the present or any future Administration shall bring back the expenses of the Government to the annual sum of $10,000,000, which I believe to be an ample provision for all the exigencies of the country. But, sir, so far from wishing to dismantle our fortifications, suffer the navy to rot upon the docks, and leave the nation entirely defenceless, as has been suggested in a report recently offered to the House, I am for maintaining all the institutions of the country on a respectable footing, and am willing, and have ever been willing, to raise whatever amount of revenue may be necessary for that purpose, though I am aware that the burden will be very unequally distributed, even by this bill.

The essential institutions of the country are the army, the navy, and the civil establishment. These I regard as indispensable; I hold them to be necessary at all times, in peace and in war; for I fully recognize the truth of the maxim, that the best way to preserve peace is to be prepared for war. Now, sir, during the last three years of Mr. Monroe's Administration, it was denounced, as I have said, for its extravagance; and yet the total annual expenditure for the army, the navy, and the civil

list, amounted, during those years, to less than $7,000,000.* I repeat it, sir, emphatically, that, when our army was more efficient, its rank better filled, and its officers as numerous and competent as they now are, the annual expenses of the Government for these three objects were less than seven millions of dollars. When you add to this the expenditure for the Indian Department, and for other objects of a miscellaneous kind, each amounting to a little upwards of half a million, it will be found that, exclusive of pensions, the whole average expenditure of the United States, during those years, amounted to but little more than $8,000,000. Assuming this as a basis, and I am satisfied that the amount will be more than sufficient, especially as our fortifications are nearly completed, (and I hope never hereafter to see more than $500,000 annually expended upon them,) and as the improvements of our navy yards also are nearly completed, I affirm that more than $8,000,000 will not be annually required for objects of a permanent nature.

Then, as to pensions, I shall confine my views in the first place, to the laws as they now stand, and not as it has been proposed to extend them. During the three years I have mentioned, the pension list was very large; since then, however, the number of pensioners has been rapidly diminished by death. So that, whereas, in 1822, the sum expended on this object was nearly $2,000,000, it is now less than $1,000,000, notwithstanding the great number of pensioners since put upon the roll, by special acts of Congress, and the relaxed rule of the War Department. It may fairly be presumed, calculating upon the probable mortality among men, none of them less than seventy years of age, that, in the course of some five years, this branch of expenditure will be reduced to a very inconsiderable sum.

It is to be remarked that, after paying off the public debt, there will be a large surplus, not less than eight or ten millions, of the income of the year 1833, because the income of that year will be principally derived from duties which accrued during the present year, under the existing tariff. Moreover, as the proposed reduction of the duties will be gradual, and I am willing to make it still more so, by extending the period of final reduction to three years, it is obvious that the surplus revenue must be considerable during all these years, and that the sufficiency of a revenue derived from average duties of 12½ per cent. will not be brought to the test in less than four or five years. Even if we suppose that the pension bill, now pending, should become a law, it is not probable that the whole pension establishment, four or five years hence, will require an expenditure of more than $2,000,000. But be that as it may, $8,000,000 will be amply sufficient for the permanent institutions and ordinary expenses, and all the revenue over that sum will be applicable to pensions and other objects.

The next inquiry in order is, what amount of revenue a duty of 12½ per cent. upon all imports will bring into the Treasury? If we assume, as the basis of our estimate, the average amount of the merchandise imported for consumption during the last seven years, we shall have something less than $69,000,000 as that average. The revenue from this amount of imports, at 12½ per cent. duty, would be something less than $9,000,000. But we are inquiring what will be the amount of the revenue, four or five years hence, after all the surpluses shall be exhausted: and I think it may be very safely estimated that the amount of the dutiable imports, under this bill, will not be less than $80,000,000. There will be at least $15,000,000 now annually applied to the payment of the existing duties, that will be disengaged from that object, and will be applicable to other purposes. It is a reasonable supposition that this amount, at least, will be applied to the purchase of foreign imports, in addition to the sum now thus applied. According to this view of the subject, making all proper allowances, it follows that the amount of the imports for consumption will be more than $80,000,000 the very first year the 12½ per cent. duty goes into operation; and, from the natural progress of population and wealth, that amount must increase considerably every year afterwards.

We shall have, then, an income of $10,000,000 from the imposts; and even if we estimate the income from the public lands at one-half its present amount, that and the bank dividends will yield $2,000,000 more.

Having shown that only $8,000,000 will be required for the ordinary and permanent expenses of the Government, it follows that, with a revenue of $12,000,000, there will be an annual surplus of $4,000,000 applicable to pensions and other objects of a contingent nature.

In presenting this brief view of the future income and expenditure of the Government, I will take occasion to remark that, if I should ever return to this body, I intend to propose a general system of retrenchment and economy; a system not founded on an indiscriminate hostility to our existing establishments, but on a deep conviction that these establishments can be maintained in purity and vigor only by the observance of a strict but judicious and liberal economy.

I am fully satisfied, that, without reducing either the army or the navy, and without injuriously curtailing the salaries of any of the officers of Government, a saving may be effected of at least half a million of dollars. Without going into details, I will barely suggest that the Treasury Department alone opens a field in which retrenchment and reform may be

* Such financial reviews as this should arrest the attention of the legislative authority. Periodical examinations into the amount of the Government expenditure, and comparison of different periods with each other, would be found to be the best means of preserving that economy which all applaud, and preventing that extravagance towards which all Governments naturally tend.

employed with very great advantage to the country. Sir, under the complicated system of high minimum duties, the expenses of collecting the public revenue have increased enormously within the last ten years. At a former period, when our revenue from the imposts was equal to what it is now, the whole annual expense of collecting it did not amount to more than $700,000. Now, sir, it has swelled up to nearly double that amount.

The proposed reduction of the duties will enable the department to dispense with the greater part of that host of custom-house officers which almost darkens our coasts; and in this item alone, several hundred thousand dollars may be annually saved. Upon the whole, sir, I am well satisfied, that the amount of revenue which this bill will produce, with that derived from other sources, will be amply sufficient for all the exigencies of the country; and that, considering it as a mere revenue measure, no one can justly take an exception to it.

I will here remark, sir, that the people of the South (whether correctly or not, I will hereafter consider) are firmly impressed with the belief that, under any system of duties, while the revenue is derived almost exclusively from imports, their proportion of the burdens imposed by federal taxation will be much greater than it ought to be according to the principle of the constitution which regulates the apportionment of direct taxes. Under these circumstances, they think they have a right to insist that the aggregate burden of taxation shall be as light as possible, and that not a dollar shall be expended by the Government that can be avoided by a rigid economy.

Having now disposed of these preliminary questions, I shall proceed to consider how far the provisions of this bill have been dictated by a due regard to the principles of justice and equality in the fiscal operations of this Government.

With the exception of certain articles admitted free of duty, nearly all of which are the imports and the consumption of the Northern States, all imported merchandise will be subjected to the moderate and equal duty of 12½ per cent. Now, sir, I desire to know whether any objection can be justly urged against this scheme, on the score of inequality. Regarding it as a Southern measure, can any other portion of the Union allege, with the semblance of truth, that it will be subjected to an undue share of the public burdens? I put the question emphatically, and desire that it may be fairly met and fully answered, is there a manufacturing State, or a manufacturing county in the Union, that will be compelled to pay a larger proportion of public burdens, by this bill, than justly and equitably falls to its share?

Let us examine this matter. Our imports of foreign merchandise may be divided into two great classes. The first consists of articles which are exclusively produced in foreign countries; the second, of articles partly produced abroad, and partly in the United States. The former are usually denominated the unprotected, and the latter the protected class of articles. Now, as to the former class, comprising teas, coffee, silks, wines, and a variety of other imports, I will assume, that from these one-half of the federal revenue will be collected, though, in point of fact, it would be more correct to say one-third only.

As to this portion of the revenue, no one has ever pretended that the burden is not equally distributed over the Union in proportion to the consumption of the articles from which it is derived. It must be apparent that the manufacturing States have no grounds for alleging that the duties upon silks, wines, tea, and coffee, expose them to an unequal or oppressive burden. Will a solitary voice be raised to denounce this part of the bill under consideration? Assuredly there will not. What, then, remains? What is the subject of complaint against this bill, and who are they by whom the complaint is made? The part of the bill which is obnoxious to the denunciation of the manufacturing States, is that which imposes a duty of 12½ per cent., and no more, on cotton and woollen manufactures, on iron and iron manufactures, and on all the other articles that fall within the scope of the protecting system. Yes, sir, this is the source of the complaints against the proposed measure. And who, do you suppose, are the persons that make them?

If an impartial foreigner, just arrived in our country, should be informed that a very deep and threatening excitement existed in relation to this part of the proposed tariff, he would very naturally suppose that, as the excitement was against a tax bill, it was the indignation of those who are called upon to pay taxes, or upon whose productions the duties were proposed to be levied. Upon being informed that the productions of the Southern States furnished the exchanges for this class of imports, he would take it for granted that these States were clamorous against so unequal a scheme of taxation. But how would this impartial foreigner be astonished, on discovering that the excitement was confined to that part of the Union which paid no part of the taxes in question; and that the cause of the excitement was, that the taxes proposed were not forty or fifty, instead of 12½ per cent. upon the value of imports! In other words, how great would be the astonishment of this impartial "looker on" from Europe, when he learned that the complaint against the proposed duty on cotton, woollen, and other manufactures, proceeded exclusively from the domestic manufacturers of these very articles, on whom the duty would operate, not as a burden, but as a bounty. He would be apt to exclaim, "What an extraordinary people the Americans must be! In Europe, Governments are shaken by the complaints of the people who pay the taxes. Here, the Union seems likely to be shaken to its very foundations by the clamors of those who receive them. In

Europe, the people cry out that the taxes are too high; here, they seem to be regarded as a great blessing, and the cry is, that they are about to be reduced too low."

Sir, in the spirit of peace and harmony, and, I will add, in the spirit of magnanimity, the people of the South now say to you, "We know that it is very unequal and oppressive upon us that the productions of our industry should pay even 12½ per cent. to support the Government, while the very same productions of your industry pay no contribution at all, but receive, on the contrary, a beneficial bounty from the tax levied upon our productions. But if you will limit the burden to the necessary expenses of the Government, we are willing to submit to it as a revenue measure, unequal as it obviously is, and will cheerfully consider the pecuniary loss we shall sustain as a peace-offering at the shrine of the Union." And what do the people of the North say to this generous and liberal overture?

"We will not accede to your terms. We have 'calculated the value of' this tax upon your productions, and we have ascertained that a tribute of 12½ per cent. is not enough to keep up our establishments in the high state of profit and prosperity which we desire. We cannot let you off with a less tribute than forty-five per cent., and it follows that you will have to pay it."

Sir, language cannot convey, nor imagination conceive any thing that would exhibit the horrible enormity of this system more clearly than this simple statement of the real condition of the interests involved, and the true point of the controversy. Now, sir, I will put this matter to a very plain test. If my views are not correct, the whole tariff question can be soon settled between the gentleman immediately on my right, (Mr. APPLETON,) who, as I understand, is one of the largest manufacturers in the United States, and myself. I turn to this gentleman, then, and I say to him, "Sir, I will now make a bargain with you for the adjustment of this difficulty. You admit that one-half of this bill is perfectly just and equal; that, I mean, which levies half of the federal revenue from wines, silks, and other unprotected articles. The entire burden of your complaint is directed against the other half of the bill; that which levies the remaining half of the revenue from protected articles. Now, sir, in tender consideration of the oppressive operation of this part of the tax bill upon the manufacturing States I will agree to strike it out altogether, and raise the remaining half of the revenue, by doubling the duties on unprotected articles, or by direct taxes. Is it a bargain, sir?" "No! no! no!" replies the gentleman, "that would be infinitely worse than the bill as it now stands; for, in that case, the tariff States would lose all their protection, and have to pay their quota of the increased duties on unprotected articles, or of the direct taxes besides; whereas, by the bill in its present form, they certainly have a protecting bounty of 12½ per cent."

The truth is, Mr. Chairman, that the manufacturing States would not agree to strike out these duties on any terms. Even if it were demonstrated that the Government did not need a dollar of the revenue derived from this source, or if the Southern States would agree to raise this half of the public revenue by direct taxation among themselves, still the manufacturing States would not accede to such a proposition. And what, sir, (I ask for no idle purpose,) does this fact prove?

The plain and naked question is presented to them—will you be satisfied to adjust this controversy, by being relieved entirely from one-half of the burden of the federal revenue, paying only your due proportion of the other half? and they, indignantly spurning the offer, reply that they will not.

Can any power of human reasoning more clearly demonstrate that they feel, and know that they will pay no part of the duties proposed to be levied on the entire class of protected articles? The matter is absolutely too plain for argument, and it comes palpably to this: the people of the South, charged with disloyalty to the Union, agree that a tribute of twelve and a half per cent. should be levied upon their productions, for the double purpose of relieving the manufacturers from so much taxation, and giving them so much bounty; while the Union-loving people of the North are resolved to put the Union itself in imminent jeopardy, unless their brethren of the South will reduce themselves to absolute vassalage, by consenting to bring to the mercenary altar of this manufacturing idol three times the proposed amount of tribute.

It must be obvious, sir, that vital as are the pecuniary interests involved in this controversy, they are quite secondary when compared with the principles involved in it.

Its true character and importance cannot be seen until we consider it, not only as a question of interest, but as a question of right and justice. It is justice, and not interest, that consecrates the struggles of men and of nations. It will not do, therefore, to show me, however clearly, that the passage of this bill will destroy your interests and desolate your country, as the existing system has destroyed and desolated mine. I am not now considering your interests, but your rights; I am not going to try this question by the barbarian test of power and numbers, but by the principles of eternal justice.

And in this sacred forum, I put these questions to every manufacturer in the Union: What injustice will this bill inflict upon you? What right of yours will it violate? What particle of your property will it confiscate, and to whom will it unlawfully or wrongfully transfer it? I beg, sir, that these questions may not be evaded by empty and unmeaning generalities, but that they will be openly and fairly met, and distinctly answered. I admit, sir, that

this bill, should it pass, will do very great damage to the manufacturing States, but it will be, in legal phraseology, damaged without injury, unless they will show that some legal or moral right will be violated.

Let us now inquire whether there is a shadow of ground for alleging that such is the fact; and, to give the inquiry a practical form, I will first ask, in what mode, and by what process, will the Northern manufacturers be injured by the passage of this bill? They are ready to inform us, in reply, as we have heard it a thousand times echoed and re-echoed from every source, in every form, and in every quarter of the Union, that they are waging a great national contest in favor of domestic industry, and against foreign industry; and it is gravely contended that every patriot is bound, upon his allegiance, to take sides with the domestic against the foreign belligerent.

Now, sir, as this idea of a contest between domestic and foreign industry is the lurking fallacy which lies at the very foundation of the American system, I solicit the calm and dispassionate attention of the committee to a plain and practical analysis, by which I think it will be clearly demonstrated that, in this as in other instances, men and nations have been carried away by mere names, and have permitted the sober dictates of common sense to be overwhelmed by one of the most arrant impostures and delusions that has ever existed in the civilized world since the darkest days of popery. It is a delusion, sir, as anti-social, and, I will add, as anti-christian, as that which induced an eminent jurist of England to express the opinion that every subject who held certain religious opinions, not conformable to the established faith, should be regarded in law as an alien enemy.

WEDNESDAY, May 30.

Survey of the Coast.

On this bill, Mr. WARD, of New York, said he did not rise to oppose the bill under consideration, but for the purpose of submitting to the consideration of the Committee on Naval Affairs the expediency of proposing an amendment to the bill, and which, if adopted, would be a means of saving much money to the nation. The survey of the coast, he said, was first contemplated in the year 1807, as appears by letters from Mr. Gallatin, then Secretary of the Treasury, to Mr. Hasler, and was intended for the benefit of our navigating and commercial interests. The law of that year is now proposed to be revised by the present bill, which provides that the President of the United States shall have the power to appoint a suitable person as astronomer to conduct it, together with officers of the army and navy. That part relating to an astronomer, or rather the employment of civil characters, was abolished in the year 1818.

Two methods were recommended for the survey of the coast, under the act of 1807, and, in his opinion, the wrong one was adopted; that is, one by measuring a series of triangles all along the coast, connecting by them the principal points, and called a triangulation; the other, that of ascertaining all the principal points by the use of chronometers and astronomical observations, and technically called the chronometric mode. The triangulation mode was adopted, and after being continued for ten years, and at an expense of upwards of two hundred thousand dollars, so little had been accomplished, that Congress put a stop to it, and wisely, too, for it would have been almost an endless work, and would have expended for the nation several millions of dollars. Indeed, said he, it would have taken almost a century to complete it, judging from the progress that was made during the ten years that it was continued, and from the progress which other nations have made in similar works. Both the English and the French began theirs in 1789; the former was not finished until 1820, and the latter is not yet completed. The triangulation of Ireland began in 1825; and by the report of the proceedings in 1831, it appears that only about one-third part was finished. If the law of 1807 should be revived without limitation, it would bring this burden again upon us.

The reasons why the bill ought not to be adopted, as it now stands, are, that a correct knowledge of our coasts may be obtained in a much shorter time, and at very moderate expense, by adopting the chronometric mode. It is well known, doubtless, to all the members of this House, that very great improvements have taken place in the making of chronometers, within these twenty-five years. This mode of ascertaining points and places of a coast has been practised with very great accuracy in Europe by the English, French, and Russians, in all their late surveys; the accuracy in combination with astronomical observations is not surpassed by any other mode in ascertaining the position of places. It has been employed to correct the triangulations, and successfully, having detected an error of five seconds in time of longitude in all the stationary points in the triangulation of England.

The coast survey, said Mr. W., will not be completed, if the method of triangulation is again adopted, under sixty years, and that, too, at an expense of many millions of dollars, and our navigating interest will derive no earthly benefit from it whatever during all that time. Whereas, if the chronometrical mode should be adopted, (and he hoped the committee would propose an amendment to the bill to that effect when it shall have been reported to the House,) it may be completed in five years, and the results will be of use immediately to the commercial and shipping interest of our country. There are already several accurate surveys of the coast, and all that is now required is to examine the harbors and different inlets, as also all the principal lighthouses, capes, and headlands.

The bills were severally reported to the House.*

The Tariff—Reduction of Duties—Expenses of the Government.

The House again went into committee on the tariff bill.

Mr. APPLETON moved to amend it by striking out the first section; which motion being debatable, he proceeded to address the House at length in reply to Mr. MCDUFFIE.

Mr. APPLETON said it was with great diffidence that he addressed himself to the committee, in reply to the eloquent speech of the honorable gentleman from South Carolina; but it could not have escaped the notice of the committee, that that gentleman had thought proper to make the application of his argument so personal to him, (Mr. A.,) and to make his appeals to him as representing a manufacturing interest, so direct, that he had no choice but to throw himself on their indulgence. It is true, said Mr. A., that, as a representative of a district deeply interested in this question, I had supposed that it might become my duty, at some period of the debate, to take a part in it. But, so far as personal considerations are concerned, I should have preferred to have done it under circumstances which would not have brought me so immediately in contrast with the distinguished gentleman from South Carolina; and I might, possibly, have shrunk from the attempt, but for the conviction that the advantages which that gentleman possesses, in the command of language, and the graces and power of oratory, are counterbalanced by the circumstance that they have been put in requisition to sustain a position fundamentally false; whilst to me remains the easier task of defending the truth, which, in the words of the poet, "needs no flowers of speech."

The honorable gentleman from South Carolina placed himself at my side as a rival manufacturer, and charges me with robbery and plunder, for the purpose of destroying his competition. He inquires by what right I claim thus to deprive him of his property, and, in the impassioned tones which indicate a deep conviction of injury sustained, demands of me justice. I assure that honorable gentleman that I am wholly unconscious of having done him wrong. I am not aware of having any thing of his in my possession, and am most ready, if I can, to do him ample justice. But, sir, I cannot recognize him in his assumed character of manufacturer; I meet him here in the character in which he has presented himself in this debate —an expounder of political economy.

It must be apparent, Mr. Chairman, that the question of the tariff, as connected with the bill on your table, and the accompanying report of the Committee of Ways and Means, so eloquently explained and enforced by the honorable gentleman from South Carolina, the chairman of that committee, assumes a character altogether new in this House. It is not a question of the general expediency of a system of protection to domestic manufactures; it is not a question of modification or improvement of the tariff; it presents the naked question, whether a system of protection, founded on impost duties, is at war with the eternal principles of justice, and should, consequently, be abandoned.

We have, during the last few years, heard great complaint of the unequal operation of the tariff upon different sections of the country, with no distinct explanation of the nature of this inequality.

The Philadelphia convention of the last summer, in their address to the people, make bitter complaints of the inequality, oppression, and injustice of the tariff, but without the slightest specification of the mode and manner in which this inequality and injustice are brought about. The charge of inequality is, in fact, completely neutralized by the allegation that "the system operates with an injurious influence on the several interests of agriculture, navigation, commerce, the mechanic arts, and even on manufactures themselves;" whilst all the reasoning of the address goes to show its injurious operation upon all classes, and upon all interests.

At length, however, the mystery is solved. The report of the Committee of Ways and Means explains the whole matter, and exhibits to us the process by which the tariff is made to blast and wither the fair fields of the South, whilst scattering plenty and wealth over the Middle and Northern States of the Union. The notable discovery has been made, that an impost duty is not, as heretofore supposed, a tax upon the consumers of the commodities on which it is levied, but falls, exclusively, on the original producers of the exports given in exchange for the imported commodities; and, inasmuch as the exports of the United States are composed, mostly, of the articles of cotton, rice, and tobacco, the productions of the South, the tax levied on imports imposes a very unequal burden on the planters of the Southern States, the producers of those articles of export. However extraordinary it may be, this proposition has been brought before this House, under the sanction of one of its most important committees, as an established truth, on the faith of which, and in obedience to its requisitions, we are called upon to abandon a long-established system of policy, at whatever sacrifice of the property of individuals.

As a speculative opinion it is not altogether new. The distinguished gentleman from South Carolina is well known as its author or discoverer, and he has stated to the committee that he proclaimed it in this House something more than two years ago. I well remember its first promulgation, and that it caught my attention as a mere curiosity — an idle and harmless

* It is twenty-five years since this speech was delivered: the triangulation method of survey has been continued, and the state and cost of the work of surveying the coasts of the United States seem to invest the speech with the character of prophecy.

speculation; but, to my utter astonishment, under the fostering care of its author, this disregarded opinion has been made to assume form and consistence, until it has found its way within these walls, under the high sanction of an elaborated report, under circumstances and in a character of appalling interest, and threatening nothing less than the integrity of the Union. Regarding it, as I do, as a proposition totally false—nay, more, as a miserable fallacy, hardly worthy, in itself, of serious argument—I cannot be insensible to the power of that genius which not only has been able

> "To give to airy nothing
> A local habitation and a name,"

but to persuade a very considerable section of the country not only of the absolute truth of the proposition itself, but to have wrought up their minds to brave all the horrors of disunion or a civil war in support of it.

Mr. Chairman, let us inquire into this matter. The amount paid into the Treasury for impost is a tax falling upon somebody; all taxes are levied upon the property of some one. Direct taxes come out of the property on which they are levied; the owner of the property taxed has no escape from a direct contribution. An impost is an indirect tax, and the payment of it is a voluntary matter on the part of the person paying. The impost duty is incorporated in the price of the commodity imported, and the payment of a tax depends on the fact of a purchase; the duty, therefore, falls necessarily upon the consumer who is the last purchaser. The importation of goods subject to impost is made by a distinct class—the merchants; they pay no part of the tax, because they make no importation but with a view to profit; no one makes an importation but with the belief and expectation that the commodity imported will sell for a price which shall include at least the original cost, the duty of impost, and all other charges, with some profit to himself. Should this expectation be disappointed, he is at liberty to send his commodity to any other market, without being affected by the duty, since that is, in that case, returned to him in the way of a drawback.

Impost duties are, therefore, taxes upon the consumption of the country. The line of custom-houses may be considered as a barrier, or wall, separating each country from the great general market of the world. Within that enclosure the price of every article of imported merchandise includes the price in the general market of the world, together with the duty imposed on it in that particular country.

It is undoubtedly true that the addition of a duty may, and often will, lessen the consumption of a commodity, and thus affect the foreign producer or manufacturer. It may compel him to reduce the price more or less, even to an amount equal to the duty imposed, or to reduce the quantity, or to abandon the production altogether, according to circumstances. Thus the tariff on woollens in this country may, and undoubtedly does, affect the manufacture of woollens in England; but to make out the case, that our duty on woollens reduces the price of cotton in South Carolina, requires an effort of the imagination quite beyond my comprehension.

We are next told, Mr. Chairman, that England cannot take our cotton unless we take her manufactures. That the difficulty of making payment has reduced the price of cotton two cents a pound, because the planter being obliged to bring home specie, the effect is to depreciate the value of specie in the United States, whilst the same cause tends to enhance its value in Great Britain. The consequence is, that the cotton which the planter sells, is sold at the low price resulting from the dearness of specie abroad, whilst all his supplies are purchased at the high prices resulting from an abundance and depreciation in the value of specie at home, the combined effect of which is equal to a deduction of two cents a pound on the price of his cotton.

Before examining the theory on which this is founded, and the process by which it is brought about, I cannot but be struck with the singularity of the circumstance that it should be brought forward at the present time. One would suppose it would be time enough to bring forward this argument when there was some indication of an approximation, at least, to a state of things bearing some resemblance to the case supposed.

The evil effects of a redundance of specie in consequence of the importations of that article from England, could hardly have been expected to have been brought forward at a time when, for nearly a twelvemonth, our banks have been pouring out their specie, to pay our balances to England, to a degree of exhaustion which has required a contraction of the currency to an extent which has produced very considerable embarrassment in the commercial cities, and a great reduction in the price of commodities. We have lately had laid on our tables a statement from the Treasury Department of the amount of our imports from, and exports to, the British European ports during the year ending 30th September last, one of which I hold in my hand, showing the amount of the former to be 44,244,234 dollars, and of the latter, 34,584,392 dollars; making an excess of imports over exports of nearly eleven millions of dollars; nearly two millions of the exports appearing to have been in specie.

On the ground of apprehension for the future, it would not have been surprising if some argument of the sort had been brought forward, were it proposed to extend a prohibitory tariff to every article of foreign production. But it does seem to me most singularly ill-timed, in reference to the avowed policy of the friends of the protective system, which proposes a general reduction of duties, opening wide the door of importation, a general extension of inward commerce, with the single exception of a

few manufactures and products, for which they claim the protection of the established system. In this state of things, can any thing be more preposterous than making it a question whether England can pay us for those of our products for which she has occasion?

London is the banking-house of the world. A sale of cotton, or other commodities, payable in the currency of London, gives to the party making such sale the power of purchasing with it every production in every part of the world. It is a power as universal as commerce, as wide as the globe.

Our trade with China, Java, India, Cuba, and the Brazils, in which we purchase much more than we sell, is, in a great measure, carried on by credits on London.

I have been furnished with an estimate, on which I have perfect reliance, of the amount of bills on London negotiated in our trade with those countries during the last year, amounting to between nine and ten millions of dollars, upwards of half being done in ports beyond the Cape of Good Hope. Our trade with all those countries, therefore, furnishes us an exchange for the productions of the planting States shipped to England, as direct and effectual as the importation of woollens and cottons from Liverpool.

The American system originated, perhaps, as much as in any thing, in the endeavor to counteract the constant tendency of our relations and trade with England to create balances against us, which must be paid in specie. The payment of these balances, in this mode, affects the bank circulation, occasions a contraction of the currency, or, as it is commonly called, a scarcity of money—a state of things which checks all industry, and embarrasses all trade, more or less, according to the degree of the intensity of the pressure.

This is the necessary state of things between a manufacturing nation and an agricultural one. The manufactures are offered on credit, and agriculturists, individually, and in the mass, are very apt to take freely the credit offered them, until the necessity of payment imposes the salutary and necessary check. With all our advances in manufactures, it will be a long time, if it ever arrive, before we shall take of her immediate productions a less amount than she will take of ours. The tendency, thus far, has been wholly the other way.

The whole question of the effect of the tariff on the production of the cotton planter is resolved into the inquiry whether it does, in fact, lessen the consumption of cotton. Because, without doing so, it is inconceivable that it should in any way diminish its price. It will not be pretended that more manufactures of cotton would be consumed in the United States if the manufacture were carried on wholly in England.

On the contrary, it is quite obvious that the consumption of American cotton in the United States is greatly increased in consequence of the establishment of the manufacture in this country; the question, therefore, is, whether other parts of the world use fewer manufactures of cotton in consequence of our protecting duties on woollens, cottons, and iron. To me it is wholly inconceivable that any such effect can be produced. How does our tariff abridge, in the slightest degree, the ability of any nation under heaven to consume cottons?

It may, perhaps, be owing to obtuseness of mind, but I cannot find, in the various illustrations of the theory made by the gentleman from South Carolina, any approach to that demonstration which he so confidently promised us—any thing like practical truth. The whole appears to me a tissue of sophistries, ingeniously put together, and showing, in the gentleman himself, some portion, at least, of that hallucination of mind which he attributes so freely to all who refuse assent to them.

The fact is, men of genius, who give themselves up to abstruse speculations on any subject, are very liable to fall into gross errors in applying their deductions as rules in practical life. This is particularly true in the study of political economy, the most abstruse of all subjects. It may be defined the science of ultimate tendencies; and the more remote and recondite the tendency, the greater the merit of the discovery. As a striking example of this, I shall quote Dr. McCulloch, the present professor of political economy in the University of London, and the Magnus Apollo of the school of ultra free trade. In the following out what he considers a most important discovery of Mr. Ricardo, to wit, that since commodities are made up of the profits of capital, and the wages of labor, and the effect of a rise in one of these elements is not to increase the price of the commodity, but to depress the other element, he perceives that it necessarily follows that the tendency of a rise of wages will be to increase the use of machinery, and so, eventually, to increase the quantity of those commodities which are produced by machinery, and, as a necessary consequence, to reduce their price.

I refer those who are curious in these matters to the sixth section in the third part of McCulloch's "Principles of Political Economy," and shall content myself with reading his practical application of them, from an article on the cotton manufacture in the Edinburgh Review for June, 1827, avowedly written by Dr. McCulloch. In discussing the question how far the cotton manufacture in England was in danger of suffering by the competition of France, on account of the wages and taxes being there so much lower, he uses this language: "But, admitting, for the sake of illustration, for we believe the fact to be otherwise, that labor is really cheaper in France than in England, it will not require any very elaborate argument to show that this circumstance cannot, of itself, lay our cotton manufacturers under any disadvantage, as compared with those of France, or any other country. We admit that it seems, at first sight, sufficiently paradoxical to affirm

that an increase of wages has a tendency to reduce the price of all that class of commodities which, like cottons, and many other species of manufactured goods, are produced chiefly by the aid of machinery. But the paradox is only in appearance; and a very small degree of attention will convince any one at all familiar with such investigations, that the proposition is as undeniable as it is important." After explaining the principle, he adds: "This principle shows conclusively that, instead of our high wages laying our cotton manufacturers under any disadvantage, as compared with foreigners, their effect must be distinctly and completely the reverse. The idea that high wages can ever be injurious to the commerce of a country, is, therefore, quite imaginary. They tend, indeed, to give its industry a peculiar bias and direction, but that is all. If, on the one hand, they raise the value of certain descriptions of commodities, and check their exportation on the other hand, they proportionally lower the value of other descriptions, and fit them the better for the foreign market. Our manufacturers may, therefore, be of good cheer."

I commend this theory to the especial attention of the gentleman from South Carolina, as a counterpart to his own; better supported by all the forms of reasoning, but equally false as a matter of practical application. The honorable gentleman from South Carolina informed the committee that the discovery that duties on imports were equivalent to a tax upon exports, originated with himself something more than two years ago; that, on its promulgation, it was hooted and laughed at. But he had since discovered that, by a singular coincidence, the same idea had been promulgated about the same period, by a very eminent political economist, Professor Senior, of the University of Oxford; and he read us an extract from one of the three lectures on wages published by that gentleman, containing, as near as I can recollect, the following idea: "That every prohibition of importation is a prohibition of exportation; that every restriction on the importation of French silks is a restriction on exportation of those articles with which those silks would have been purchased."

It so happened, that, in the course of the last summer, these three lectures of Mr. Senior fell in my way, and I looked through them, without discovering the new principle of the gentleman from South Carolina; neither do I perceive it now; and I will refer the gentleman to an earlier promulgation of the same idea, and a coincidence still more striking with the language used by him. It is in the Edinburgh Review for December, 1828, in an article on the American tariff attributed to the same Dr. McCulloch whom I have already quoted, and is as follows: "Commerce is merely an exchange of equivalents, and those who refuse to import, really, by so doing, refuse to export. If America cease to buy a million's worth of produce from foreigners, she must, at the same time, cease selling to them a million's worth of some other species of produce; that is, she must cease sending to the foreigner the articles she had previously been accustomed to export, to pay for the articles obtained from him, that are, in future, through the agency of the prohibition, to be raised at home. All, therefore, that she will accomplish by this measure, will be the transference of capital from one branch of industry to another."

There is certainly nothing new in the annunciation that commerce is an exchange of equivalents. The idea was very fully illustrated in the very able pamphlet on the bullion question, published by Mr. Huskisson, in 1811. This idea would seem to have been the germ of the theory of the gentleman from South Carolina; but I do not perceive that either Mr. Senior or Dr. McCulloch sustain it. The gentleman's argument, as I understand it, put in the form of a syllogism, stands thus: "All commerce is an exchange of equivalents; imports and exports are, consequently, equal to each other. Therefore, a tax upon imports is equivalent to a tax upon exports. Now, these learned professors appear to me to furnish only the major and the minor propositions of the syllogism. The conclusion seems to belong to the gentleman from South Carolina, and, according to my logic, is a palpable *non sequitur*. I do not see the connection. Why or how is a tax upon imports equivalent to a tax upon exports? Because imports and exports are of equal values? It is beyond my comprehension. It is true that a given per centage on equal sums will produce an equal amount. That a tax of forty per cent. on imports is equal or equivalent, in amount, to a tax of forty per cent. on exports, is self-evident. But to say that it falls on the same parties, appears to me as absurd as to say the estates of A, in Massachusetts, and of B, in South Carolina, are equal; a tax on A is equivalent to a tax on B; therefore, B pays the tax levied upon A. And is it for oppression and injustice, found to exist by such a mode of reasoning, that South Carolina is about to secede from the Union?

The honorable gentleman has stated his conviction that South Carolina will not submit. He has even fixed the utmost period of her enduring patience at five months; he has given us an ominous intimation that this may be his last appearance in this Hall. Mr. Chairman, I am perfectly aware that this state of excitement exists in South Carolina. I believe that a spark only is wanting to light it into a blaze. Could I believe in the proposition of the gentleman from South Carolina, I should justify that excitement. I would join South Carolina in abolishing the tariff, whatever might be the consequence. The gentleman says, that within ten, twenty, or thirty years, the world will be lost in astonishment that his theory should ever have been doubted. I, sir, will venture a counter prophecy, that the astonishment will be of a different character—that it will be

ranked with those delusions which should teach mankind a mortifying lesson of humility.

MONDAY, June 4.

Virginia Military Claims.

The House took up the bill for the Virginia claims.

[This bill proposed to appropriate about $600,000 to the State of Virginia, to reimburse moneys paid by her to certain regiments of the Virginia line, which had, on application by General Washington, been transferred to the continental service.]

Mr. BARBOUR, of Virginia, went into a brief detail of the facts on which the claim was founded. He denied that Virginia now came before the House to ask the Government to discharge the engagements she had entered into with her own troops. Mr. B. explained that, as to two of the regiments, they had served wholly in the continental service—one regiment at the battle of Brandywine, the other in a subsequent battle; both of which were fought for the preservation of Philadelphia, then the capital of the United States. Another class provided for by the bill were troops which had chiefly, though not altogether, been employed in the service of the General Government. Another class were those troops which had been employed in the conquest of the Western country, and as to whom the United States had agreed to pay Virginia the whole of the expenses incurred in the conquest or preservation of that portion of country. The reason why these claims had been delayed to the present time was this: at the close of the war, a board of officers was established to discriminate as to the claims. By an act of the commonwealth of Virginia, claimants were allowed to go into her courts of law, where she suffered herself to be implicated. These claimants did so, in the prosecution of their claims; but the report of the board of officers being lost, the court of appeals, according to the well-known rule of law which requires that the best evidence shall be produced which a case will admit of, decided against these claims. The report was afterwards found, and the claimants obtained judgment against the State of Virginia for remuneration for those services which had been rendered, not to that State, but to the United States.

Mr. BARSTOW, of New York, said that it was with great diffidence he at any time rose to discuss a question in this House, and he was peculiarly unwilling, at all times, to oppose any measure which was brought forward by the honorable gentleman from Virginia, (Mr. BARBOUR.) Nothing but a sense of duty would ever induce him to throw himself upon the indulgence of the House; for he was contented, on all ordinary occasions, to give his vote honestly and conscientiously, and leave it to others, if they choose, to search for the reasons of his conduct, and to put such construction upon his motives as they might deem proper. But, as he deemed the question now before the House to be one of great importance, not merely on account of the large amount of the claim, but because he considered the principle sought to be established by this bill of great consequence to this Government, he asked the attention of the House while he stated some of the reasons that would induce him to vote against this bill.

It will be recollected, said Mr. B., that, at an early day, the continental Congress took up the subject of allowing half pay to the officers of the revolutionary army who should serve to the end of the war. As early as 1778, or perhaps before that time, this important subject was brought before them, but the resolution which settled the principle of half pay for life, was not adopted until the 11th of August, 1779. The resolution of Congress of March 22, 1783, substituted five years' whole pay, instead of half pay for life, at the request, or by the consent of the officers entitled to the same. Previous to the passage of the resolution of Congress of August, 1779, the State of Virginia took up this subject, and in May, 1779, passed a law promising half pay, during life, to all the officers of the army who were citizens of that commonwealth, whether serving in the State troops, or in the continental line, provided Congress did not make "tantamount provision" for them. This law of Virginia was highly honorable to the Legislature of that State, who, in anticipation of what Congress might do, had thus made the State liable to the expense of half pay, for life, to all the officers of the army who were citizens of that State. The very words of the act show that it was considered a State bounty, and it was expected and intended, without doubt, that the State should pay all those for whom Congress did not make "tantamount provision;" and it could not have been anticipated that Congress would go further than to provide for those who were on the continental establishment. This was an act of generosity on the part of Virginia, and the patriotic Virginians of those times could not have expected Congress to provide for the officers in their State troops, who were citizens of Virginia, without providing for the officers in the State line of other States. Congress did provide, as was expected, for the officers of the continental army, and consequently relieved Virginia from the payment of the officers of that State who were on the continental establishment.

I will not enter into a discussion of the claim which the officers of the State troops of Virginia might have had upon that State, nor will I inquire how or why it has happened that she has kept those officers out of their promised reward for half a century. Her law of May, 1779, ought not to have been misunderstood. I know, however, that it has been evaded, under a pretence that those officers did not serve to the end of the war. It appears evident to me, however, that the claim of those officers upon

Virginia was founded in justice, and, as they were not discharged until February, 1783, they had good right to suppose they had served to the end of the war, although the definite treaty of peace was not ratified till some time after.

The laws of Virginia having permitted private citizens to commence suits against the State, it seems that some of the officers, or their representatives, have recently commenced suits for the half pay promised by the act of May, 1779, and her courts have decided that the State is bound to pay those claims. The amount appropriated by the bill before the House is a little more than $400,000; but I believe the whole amount, as stated by the agent of the State of Virginia in his memorial, is somewhat more than $600,000.

I have considered the act of Virginia an act of generosity, and highly creditable to that patriotic State, and I cannot believe that those who passed that law ever intended to make it the foundation of a claim upon the Government of the Union. Other States of this Union have passed similar acts of generosity, and have carried them into effect, and have themselves provided the means, without ever even dreaming of calling upon the General Government to indemnify them. The State of South Carolina has a pension list of revolutionary soldiers who are paid under her own State laws, and out of her State treasury. Pennsylvania pays annually in pensions to the soldiers of her State line more than $20,000, and has also given bounties in lands to a large amount. Have South Carolina and Pennsylvania asked remuneration at your hands? They certainly have as good reason to do so as the State of Virginia has, in the case now before us. New York, sir, has exceeded every State in the Union in her munificence to the soldiers of the revolution. Has not that State set apart the fairest portion of her lands—the very garden of her possessions, to her soldiers who fought the battles of the country? Has she asked this Government to indemnify her for these acts of generosity and munificence to those who served their country in her greatest peril? Should the State of New York (although the State which I have the honor in part to represent here) ask this Government to indemnify her for expenses incurred by her own acts of generosity, I would be among the first to oppose her claim. I would say to her, "perform your own patriotic promises, and not sacrifice the honor you have acquired by accepting a remuneration from others."

Besides, the accounts of the different States with each other and with Congress during the war of the revolution, were long since disposed of and settled. The law of Congress of 1790 directed the appointment of commissioners to settle all these claims. The law barred all accounts not adjusted and allowed by the several States previous to the year 1788. Those commissioners did adjust the accounts of all the States upon just and equitable principles. Those accounts, sir, consisted of moneys advanced; pay and subsistence of the soldiers of the State troops and militia; munitions of war; camp equipage, and every other necessary advance made by the several States in support of the common cause. All these expenses and advances were allowed and settled.

In answer to the inquiry of the gentleman from Kentucky, (Mr. WICKLIFFE,) I can only say, that, in my judgment, this claim now set up by the State of Virginia, if it had been made at that time, would not have been allowed. It was of a very different nature from those claims which were allowed. It grew out of a State law—a mere act of State generosity, and was no part of the necessary expenses for the common defence. They could not have allowed half pay to the officers of the Virginia State line without making the same rule apply to all the States.

The gentleman from Virginia (Mr. BARBOUR) tells you that these regiments of the State line of the State of Virginia were brave; that they fought many important battles in defence of the whole country, and not merely in defence of the State of Virginia. I agree with him that the soldiers of that patriotic State were brave, and that they fought for the common defence of the whole country; but did not the State troops and militia of the other States fight also for the whole country, and for the common cause? Did not the militia of New England act a conspicuous part, on many occasions, and particularly at the battle of Saratoga? And have their officers received half pay for life?

When this bill was before the Committee of the Whole, the other day, I took occasion to say that it involved principles new and unknown to this Government, and that no precedent for it could be found in our laws. The gentleman from Virginia (Mr. BARBOUR) then said, in reply, that the principles contained in this bill were well settled, and that Congress had, more than once during the present session, recognized the same; and, I believe, he alluded to the provision made during the present session for the officers of Colonel Gibson's regiment. This assertion was made with so much confidence at the time, that I did not know but I might have been mistaken in the position I then took. But let us examine the subject. When a bill was under consideration, some time ago, in this House, allowing five years' full pay to an officer of Gibson's regiment, I then took occasion to make some objection to the bill, on the ground that Gibson's regiment belonged to the Virginia State line, and not to the continental establishment. The gentleman then assured the House that Gibson's regiment had been transferred to the continental line, in the place of a regiment which had been principally destroyed at the battle of Germantown, and mentioned a resolution or law of the Legislature of Virginia making the transfer. He also informed the House that this regiment had been recognized at the Pension Office as a continental regiment, and entitled to pensions under the

act of 1828. The pension act of 1828, it will be recollected, provided only for those who served during the war in the continental line, and were entitled to the bounty of eighty dollars by the resolution of Congress of May 15th, 1778, in case they served to the end of the war. The acts of the present session of Congress, therefore, which provided for certain officers of Gibson's regiment, were passed under the belief that this regiment was in fact a continental regiment. But it is not pretended that the regiments mentioned in the bill before us were continental regiments.

The truth is, that the gentleman from Virginia, as well as the Secretary of the Treasury, were mistaken in supposing that Gibson's regiment was ever considered by the old Congress as a continental regiment. I can find nothing in the journals that goes to confirm such an opinion. Although the head of the Pension Office may have decided in their favor, yet we know also that the decisions of that officer have not always been satisfactory where he has rejected claims; and he may have sometimes committed an error in allowing claims which were not entitled to such a decision. Neither the resolution of Congress of August, 1779, nor the act of Congress of 1828, provided for any persons except such as served for and "during the war," or had become supernumerary by the consolidation of the army on the 1st of January, 1780. I believe I am correct in saying that if Gibson's regiment was ever placed on the continental establishment, it did not continue on that establishment until the end of the war. It was discharged in October, 1781, immediately after the battle of Yorktown, and the capture of Cornwallis.

Under all the circumstances of the case, I cannot consider this claim as having any foundation in justice. Its allowance would open the door to claims without number from the other States, resting on principles of a similar nature, and which it was the intention of the law of Congress of 1790 to guard against. I cannot, on the whole, refrain from expressing my astonishment that the State of Virginia should have resisted this just claim of her officers for half a century, and, when forced by a decision of her own courts to fulfil the promise she made her old soldiers, by the act of 1779, and which was so honorable to the patriots of that day, and when being no longer able to put off the payment, that she should apply to the General Government to relieve her from her own honorable and voluntary act of generosity towards so deserving a class of her citizens.

Mr. A. H. SHEPPERD, of North Carolina, followed, and occupied the floor until half-past four o'clock. He was opposed to the bill. The difficulties which might arise in the settlement of these claims in future times, had been anticipated by Congress in 1790, and, to prevent such a difficulty, a board of commissioners was appointed, and an act passed for the adjustment of these State accounts.

By the settlement which took place in consequence of that act, Mr. S. contended that these claims had been settled, and that to grant them would be to disturb that settlement. Mr. S. further contended that the fact of State troops fighting occasionally in the other parts of the country did not give them a claim on the United States as continental troops; that, therefore, this claim must be founded on, and consequently limited by, the act of 1790. By that act all such claims were limited to October of the year 1788, and, consequently, these claims could not be sustained under that act, because they had not been allowed by the State at the time provided. Mr. S. contended that there was no evidence that Virginia regarded the officers embraced in this bill as of that class termed supernumerary officers. He said that if this claim was allowed, he saw no reason why they should not appoint another board of commissioners, to see if they could, at this late day, do more ample justice to the claimants of this character. He had no doubt that something might be done to Virginia; but if these claims were allowed, it would open again the whole subject of State claims on the General Government. He contended, however, that it was too late now, and moreover, that there were no accounts by which they could, with any ground of reason or justice, disturb the settlement of the commissioners of 1790.

THURSDAY, June 7.

Navy Pension Fund.

Mr. WATMOUGH presented a petition from a widow of one of our marines, praying that her husband's invalid pension might be allowed to her and her children. Mr. W. stated that that petition was founded on a bill which had been reported from the Naval Committee to extend the provisions of the navy pension fund. The bill was short, and would occupy but little time, and he hoped the House would now indulge him by going into a committee to take it up. Objection being made, he moved to suspend the rule; which motion prevailed—yeas 109.

Mr. W. read from a statistical statement in his hand the amounts of surplus which had accrued to the fund during several years, in consequence of its receipts exceeding its expenditures. The result was, that the fund would have had $1,096,000 in its possession, but for a loss by the failure of the Bank of Columbia, which greatly reduced it.

The House then, on motion of Mr. W., went into Committee of the Whole, and took up the bill further to extend the pensions heretofore granted to the widows of persons killed, or who died in the naval service.

The bill having been read, Mr. W. moved that the committee rise, and report it to the House.

Mr. HOFFMAN opposed the motion, and quoted the opinion of the late Secretary Southard, in

evidence that the change proposed by this bill, in the application of the navy pension fund, was hazardous. Mr. H. contended that the fund ought to be nursed, and held in reserve for those for whose benefit exclusively it had been created. It was intended not for widows and children, but for those who had sustained personal injury in the naval service of their country, or those who had become superannuated and helpless.

The committee then rose, and reported the bill.

Mr. BARBER, of Connecticut, moved the previous question, which was seconded, put, and carried; and the main question being on the engrossment of the bill, it was carried in the affirmative—yeas 90.

FRIDAY, June 8.

The Convention with France—Commission to Settle Claims—Reduction of Duty on French Wines.

Mr. ARCHER renewed and earnestly pressed a motion to go into Committee of the Whole on the state of the Union, for the purpose of carrying into effect the late convention with France. He did not apprehend the occurrence of any debate, and promised that, in case amendments should be offered, or any prolonged discussion attempted, he would himself move for the postponement of the bill. He recalled the attention of the House to the importance of the bill. There were some claimants whose claims were of twenty, and others of thirty years' standing. The Government had now succeeded in obtaining $5,000,000; and though that would go but a small way towards satisfying the entire mass of claims, yet it was very important that even this relief should be realized as soon as possible. The money was now ready to be paid over; and should the board of commissioners be at once appointed, the claimants must still wait two or three years more before they could realize any part of what was due to them. They ought to be in session at this moment. Mr. A. engaged that, should the bill be opposed in committee, he would not speak in reply; and, when it came into the House, he would consent to its postponement to any day which gentlemen might desire.

The House went into Committee of the Whole, Mr. WICKLIFFE in the chair, and took up the bill "to carry into effect the convention between the United States and his Majesty the King of the French, concluded at Paris on the 4th of July, 1831."

[The bill appoints a board of three commissioners for the examination of claims. They are to have a secretary and clerk—are to meet on the first Monday of June, in this city, and to conclude their duties within three years. The bill assigns a salary to each of the commissioners of $3,000 per annum, to the secretary $2,000, and to the clerk $1,500.

The secretary is required to be versed in the English, French, and Spanish languages. The awards of the board are to be transmitted, through the State Department, to the Secretary of the Treasury, and paid by him. The bill contains a supplementary section ordaining that for ten years from the 2d of February, 1832, French wines shall be admitted into the United States under a duty of six cents on red, ten cents on white, and twenty-two on wine in bottles.]

Mr. ELLSWORTH inquired how long a period of time had been allowed for completing the award of other commissioners.

Mr. ARCHER replied that the usual period was three years. This had been assigned to the Danish commissioners, although the amount of claims submitted to them had not been near so great as that on which these commissioners must pass. One provision usual in such conventions was, that the foreign Government should furnish all the evidence in their possession that might be necessary for the establishment of the claims, and time was necessary to collate the foreign documents that might be received, and put the evidence in a form to be submitted to the board. This had been one principal source of the delays which had occurred in the proceedings of other boards of a similar character. We must have such a board, or our citizens could not get their money. The French Government had stipulated, and was ready to pay the five millions; and the present bill followed the precedents which had been set in previous cases.

Mr. EVERETT said that he thought two years quite enough for completing the duties of this commission. It was now six years since, on the call of this House, the claimants for French spoliations had been invited to make out their respective cases, and send forward their vouchers; and this had been generally done. A large quarto volume of such evidences of claims had been reported to the House, and printed by its order. This had been done six years ago. Negotiations for the allowance of these claims had been pending during all those six years, and, indeed, during a period twice as long. A general expectation had prevailed that something would be done, and the claimants, in general, had prepared their claims for adjudication in consequence. In the case of the Florida treaty, the claimants had not had so long a warning; and in that case, it might have been proper to allow the board three years; but in this there could be no such necessity. Mr. E. spoke from personal knowledge when he said that the claimants in general considered two years as long enough for the sitting of the board. And if they who were most interested were willing that the period should consist of two years, why should the House extend it to three? Some of them had lain out of their money for twenty, twenty-five, and some as long as twenty-seven years; and it was a great hardship that now, when the money had been

obtained, when its payment was secured, and it might be said to be almost within their grasp, still further delay should, without necessity, be interposed. A colleague of his (Mr. APPLETON) had letters in his possession from some of the claimants residing in Boston, stating it as their wish that the period should not be longer than two years; and he did not doubt that the same wish was shared by those resident in other cities of the Union.

Mr. POLK apprehended that there would be some conflict between the interests of the claimants. A large portion of those claims were in the hands of insurance companies, who had the evidence in support of them already prepared; while individual claimants, who did not possess the same advantages, were very differently situated, many of them having the evidence of their claims still to be looked up. A majority of the Committee on Foreign Affairs, after reflecting on the circumstances of the case, had come to the conclusion that three years would not be too long a time to be allowed for this purpose. Three years had been allowed to the Florida commission, and the same length of time to the commissioners under the Danish treaty. And there would be quite as much difficulty, and more, in settling the claims under the present commission. It would, no doubt, be for the interest of the insurance companies that the time should be limited to as short a period as possible. But this would not be doing justice to the other claimants. There were claims to the amount of fifteen or twenty millions of dollars, and only five millions of dollars to satisfy them. Of course it was the interest of those who now owned them to shorten the time, because the more claims they could shut out, the larger their own dividend would be. He thought, besides, that the insurance companies were not entitled, as claimants, to the most favorable consideration, because, though their losses had, no doubt, been large, the risk had been voluntarily assumed, and the loss in some measure compensated by the premiums they had received. There were other claimants who had claims of much greater hardship; and, as the controversy was chiefly between them, he hoped the motion of the gentleman would not prevail.

Mr. ELLSWORTH had no desire for an unreasonable limitation, nor that the time should be curtailed so much as to deprive any of an ample opportunity of establishing their claims. But as a considerable number of the claimants were among his own constituents, and as none of them could get their money till the commission should have expired, he was opposed to having the time needlessly prolonged. In proportion to the time assigned to the commission, would be the dilatory movements of the claimant. He could not believe that there was any good claim, the evidence of which might not be obtained within two years, and he should be opposed to an extension of the period beyond that time, even if it should not be attended with an increase of public expense. He hoped the time would not be prolonged beyond two years at the furthest.

Mr. REED said he represented a number of these claimants, whose evidence had been long since prepared; but, on looking into it, he found that many of the papers were wanting, and would have to be supplied. That was the only reason why he should assent to as long a period as two years. As to the remark of the gentleman from Tennessee, (Mr POLK,) that the insurance companies were not claimants entitled to as much favor as others, it was entirely a mistake. On all principles of justice, their claim was entitled to just as much consideration as that of any other individual. Besides, if it should appear, toward the close of the two years, that injustice was likely to result from confining the commission to that length of time, the House could extend the time. But, should it be fixed at first at three years, although one might be sufficient, notice having once been given, it would not do to shorten the period.

Mr. PEARCE, of Rhode Island, said that he represented a commercial part of the Union, yet he must differ from other gentlemen who represented commercial interests, in reference to the present subject. The view taken by the gentleman from Tennessee (Mr. POLK) appeared to him to be a very correct one. He thought that a too great curtailment of the time would have a tendency to shut out and push aside the interests of those whose claims were of comparatively small amount. There were many who had only a small share in the losses sustained, being part ship-owners. These persons, some of whom were mates of vessels, might not perhaps have owned more than two or three thousand dollars in a captured ship. Such persons did not possess the same means to collect evidence as those did who had heavier claims.

Mr. BATES, of Maine, would only add to what had been said by the gentleman from Rhode Island, that in many cases the papers necessary to establish the claims were not now in the country. He had recently received letters from some of the claimants in his district, inquiring about the condition of their papers; and, on examination, he found that some of them had been sent to France. In such cases, time ought to be allowed for the papers to be returned, and suitably arranged, that they might be presented in time. Many of the claimants resided in the interior, having retired from trade, and whose only hope was in recovering the amount of their claims. Suitable time ought to be allowed to such persons to obtain and prepare the evidence that might be necessary in their respective cases.

Mr. DEARBORN said that he had received several commissions in relation to these claims, but they did not proceed from insurance companies, but from private individuals, and he thought that two years was time enough for

the sitting of the commissioners. Within that time, a claimant might send to France six or seven times. He might send twice even to India. He believed that nearly the whole number of the claimants would prefer two years to three for the duration of the commission, and would like even a shorter period. As such was the wish of those who were most interested in the question, he trusted that the time would not be extended beyond two years.

The question was put on the amendment proposed by Mr. EVERETT, and carried—yeas 77, nays 56.

So the committee determined that the period of the commission should be fixed at two years.

Mr. PEARCE offered an amendment, which went to provide that before the award of the commissioners should be paid to any claimant, the debt of such claimant to the United States (if any) should first be deducted; which was agreed to.

Mr. JEWETT offered an amendment, which changed the compensation of the commissioners to a per diem allowance of eight dollars for every day in which they should be actually employed, and eight dollars for every twenty miles they might have to travel in attending and returning from the meetings of the board, with a proviso that their entire allowance should not exceed three thousand dollars. A similar proviso was added with respect to the secretary, whose whole allowance was not to exceed two thousand dollars.

The amendment was agreed to—yeas 80, nays 52.

On motion of Mr. ARCHER, the bill was further amended, so as to require the board to meet on the first Monday of August next. The committee rose, and reported the bill to the House.

The first amendment reported by the committee was concurred in.

The second, which related to the duration of the commission, having been read, the debate upon it was renewed. The extension of the term to three years was contended for by Mr. POLK and Mr. PEARCE, and opposed by Messrs. DRAYTON, CAMBRELENG, and DEARBORN; when the question being put on concurrence, it was carried—yeas 76, nays 59.

So the House determined that the commission should be limited to two years.

Mr. JEWETT's amendment having next been read, and the question being on concurring,

Mr. EVERETT opposed the amendment. He thought the allowance in the bill was not too much for the right sort of men to fill such a station. The situation of a commissioner to pass on claims so important required a man of various talents and much knowledge, both legal and commercial. He did not believe that the amendment would produce any saving, or none that would in anywise compensate for the consequences. The effect of adopting it would be, that the appointments would have to be made from persons in the neighborhood of this city. No man, of a suitable standing, from a distance, would accept the commission on such terms.

Mr. WICKLIFFE was very much in favor of the amendment, and hoped the House would concur in it. In all the boards which had hitherto been appointed, it had generally been found that they regulated their labors according to the time allowed them by Congress; but when the claims for spoliations on the Niagara frontier, amounting to not less than $400,000, instead of being sent to a board of commissioners, had been referred to Peter Hagner, the whole amount had been settled in the interval between the adjournment and the meeting of the next session. Mr. W. felt persuaded that if the House should confine these commissioners to a per diem allowance, they would get the business done much sooner than if they were allowed the annual salary. If they were all allowed their three thousand dollars a year, they would probably come on here, meet, and give notice to the claimants, hire a house, attend a few pleasant evenings on the sessions of Congress, and then go home, having the comfortable certainty that their salaries were going on all the while; but if they were on a per diem, they would waste no time.

Mr. WILDE conceived the principle of the amendment to be highly exceptionable, and as it seemed likely to be adopted, he felt bound briefly to state his objections to it. He must do it briefly, as his health would not permit him to do otherwise. It had been said that in ordinary cases such a board need not sit longer than four months in the year. At the per diem allowance proposed in the amendment, the compensation of a commissioner would at that rate amount to about nine hundred and sixty dollars. Could it be seriously expected that gentlemen could be obtained who were fit to distribute a fund of such magnitude for such a compensation? Did not the Government pay the judges of the Supreme Court an annual salary, and were they occupied during their whole time? Why not allow them a per diem? The gentleman said that he was willing to reward these commissioners liberally, yet, that he believed a great saving would result. Now, Mr. W. would not say that any gentleman intrusted with such a situation would yield to so base a temptation as to sit from day to day without business, for the sake of making his compensation mount up to something like a respectable sum; but this he would say, that any set of men who would accept of that commission for an allowance of nine hundred and sixty dollars, would be capable of sitting every day with or without business, for the sake of making up their salary. From the grade of talent that was requisite to the due and competent discharge of such a trust, it was necessary that the individuals who were to fill the station should be taken from the highest rank of the legal profession; and who did not know that the annual receipts of such men far exceeded the paltry

sum of nine hundred and sixty dollars? If the allowance must be per diem, it ought at least to be doubled, or they could not expect to command the talent which was suitable to the place.

The question was taken on concurring in the amendment, and decided—yeas 80, nays 54.

Mr. PEARCE's amendment was also concurred in, which provides that the debts of the claimants to the United States shall be deducted before the money awarded them is paid.

Mr. VANCE moved to strike from the bill the tenth section, which is in the following words:

"*And be it further enacted*, That, for the term of ten years from and after the second day of February, 1832, wines, the produce of France, shall be admitted into the United States on paying duties not exceeding the following rates on the gallon, (such as is at present used in the United States,) that is to say: six cents for red wine in casks, ten cents for white wine in casks, and twenty-two cents for wines in all sorts of bottles."

Mr. V. said he thought the adoption of this section of the bill would go to surrender the principle that this House had any right to interfere with treaties, and would be admitting that the Executive and the Senate might regulate the whole imposts of the country at their pleasure, without any action of the House, or control on its part at all. The President, with the assent of the Senate, had here undertaken to fix the duties that were to be levied on French wines imported into the United States for a certain term. It was not that Mr. V. was opposed to lowering the duties on these wines that he objected to this part of the bill, for he would have no objection to take them off entirely, but he protested against the principle.

Mr. BARRINGER said that he thought the motion of the gentleman from Ohio would operate, if adopted, to defeat the very object he had in view in making it. The treaty with France stipulated that the duty on wines should be reduced. The Senate had ratified the treaty, but it could not receive validity in this feature of it without the act of this House. It was this very section which alone retained to the House jurisdiction over the subject. The gentleman had contended that the treaty would not be valid without this section of the law. But treaties were held and declared by the constitution to be the supreme law of the land; and if the House should refuse to act with respect to this reduction of the duties on wines, the whole effect would be, that the reduction would go into effect without any action of the House at all. Would not that involve the very consequence the gentleman sought to prevent?

Mr. CLAY said that the bill had now occupied much time: and as he would not believe that a majority of the House would consent to violate what by the will of two of the co-ordinate branches of the Government had become a law of the land, he demanded the previous question; but at the earnest request of Mr. ARCHER, consented to withdraw the motion on condition that Mr. A. would renew it.

Mr. ARCHER said that he held, in the fullest manner, the power of the House to withhold its assent from the execution of a treaty which it did not approve, and it was this very idea of retaining jurisdiction over the subject, and thus asserting the right, that had induced the committee to insert this section in the bill. The section followed the words of the treaty. The measure was attended with a twofold advantage: First, it obtained for us a reduction on the duty on cotton imported into France for neary one hundred per cent. The duty in France, before this treaty, on sea island cotton was double that upon uplands: by the treaty, the duty on both descriptions of cotton was made the same. The other advantage related to the claim of the French Government to Louisiana. No man knew better than the gentleman from Kentucky, (Mr. WICKLIFFE,) who had asked a question as to the wording of the section, the perplexity which had attended the arrangement of the French claim; and it was the admission of the soundest men, that the ground on which the United States stood as to that matter was very doubtful. But, in consequence of this admission of her wines, France had now consented to relinquish all claims arising under the Louisiana treaty. And what was the amount of this reduction of duties? It was but four cents on one kind of wine, and five cents on another: while on wines in bottles the duty was reduced from fifty to twenty-two cents. The larger introduction and use of the French wines in this country was an object greatly to be desired. Mr. A. concluded by renewing the motion for the previous question.

The motion was seconded by the House—yeas 80.

Mr. VANCE, being still opposed to the section he had indicated, demanded the yeas and nays on the previous question.

They were ordered, and taken, and stood as follows: yeas 119, nays 46.

So the main question was put, and the bill was thereupon ordered to be engrossed for its third reading.

SATURDAY, June 9.

Mounted Infantry.

Mr. DUNCAN moved to take up the bill from the Senate for mounting and equipping a part of the army of the United States. Objections being made, he moved that the rule be suspended for that purpose, and submitted a letter from an individual on the frontier, giving some very shocking details of the massacres committed by the Indians upon the defenceless inhabitants. The rule was suspended, and the House, on motion of Mr. DUNCAN, went into Committee of the Whole on the state of the Union, Mr. TAYLOR in the chair, upon that bill.

Mr. CARSON objected to the clause of the bill

which limits the number of the troops to be raised to ten companies. He thought the number of troops ought to be left entirely to the discretion of the President.

Mr. DUNCAN moved to strike out all after the enacting clause, and substitute a provision that the President might receive eight hundred mounted gunmen as volunteers, to serve from the 1st of April to the 1st of November in every year, and longer if necessary, receiving the same pay as the mounted troops of the United States, and appropriating $50,000 to cover the expenses which might accrue. In supporting the amendment, Mr. D. said he had long foreseen the necessity of raising a permanent corps of mounted men for defending the frontier. About the first proposition he ever submitted for the consideration of Congress, was one, in 1828, for raising eight companies of mounted gunmen for that service. His experience convinced him that it was the only force that could be relied on to keep the savages in proper subjection; and he firmly believed that all the distress and bloodshed that had just been heard of in Illinois would have been avoided if Congress had adopted the plan he then and now suggested. No number of United States' soldiers on foot could restore peace and confidence to the citizens residing in that country Families who have witnessed the shocking scenes which had just been acted on the frontier, would never return to their homes until an efficient force, such as can be relied on, may be raised and permanently stationed on the frontier for their protection and defence. He believed we should hear of no more Indian wars, after this force was organized and placed in service. One thing certainly would be accomplished by it; citizens residing in that section of the country would no longer be subject to be called on without preparation to leave their families and their business, to march against these Indians.

The Government had the power, and it was proper that it should protect every one of its citizens while engaged in their usual pursuits. On great occasions, he thought the militia should be relied on for the national defence, but it was ruinous to any people engaged in civil pursuits to be compelled to defend their own firesides, or to be required to march in defence of their neighbors, on every incursion of an enemy, however small their force. The militia on the frontier had always given the highest evidence of patriotism, by turning out at a moment's warning to defend the country, even though it deprived them of raising a crop for the support of their families, which was the case last year, and he did not doubt it would be so again this season. He believed that the pay allowed by the Government to the citizens thus called out, could not possibly compensate them individually for their sacrifices, much less for their privations of being hurried into the service without the necessary preparations to make them comfortable; but he said the privation and injury to the soldier thus called out was nothing compared with the injury done to the whole community residing near the frontier, who were compelled to fly from their homes, and sacrifice not only the produce and labor of the season, necessary for their support, but all the effects they possessed are left behind, and are generally destroyed. The bill he had just offered would remedy all these evils. It was a measure not only of justice, but humanity, and he hoped it would be adopted without delay, as he thought it very probable that these troops could, and hoped they would, if necessary, be raised in time to assist in expelling and chastising the war party of Indians which had just commenced the outrages on the citizens of Illinois.

Mr. D. said if the expense could be thought an object, he was satisfied an important saving would accrue from the adoption of the amendment. The proposal was that each of these volunteers should furnish his own horse; and as this force would not be needed in winter time, (for it was not the habit of the Indians to make war in the winter,) the country would be saved the expense of the keeping of these horses during all the winter months — an expense which must be incurred if the United States' troops should be employed. The young men of the country who would constitute these volunteers all owned horses, and were accustomed to taking care of them. They were to be allowed forty cents a day for the use of their horses, and such an allowance would occasion a great saving if compared with the expense that must be incurred should the United States' troops be mounted at the expense of the Government.

Mr. DRAYTON proposed to amend the amendment of Mr. DUNCAN, so as to increase the number of troops from eight hundred to one thousand, which Mr. DUNCAN accepted.

Mr. DRAYTON was exceedingly anxious to impress on the House the policy, he might almost say the necessity, of adopting the measure now proposed. According to the best of his recollection, a plan exactly similar to this had been heretofore reported to the House by the Military Committee. Yet, notwithstanding the reasoning contained in the report had been corroborated by the opinion of those best acquainted with the nature of Indian warfare, he referred to such men as Gen. Clark, Gov. Cass, Gen. Gaines, Gen. Atkinson, and the very experienced gentleman at present a member of this House from Missouri, (Mr. ASHLEY,) the measure had failed to meet with the approbation of a majority of the House. At that time the committee could only suggest what would be the probable consequences of refusing to organize such a force. The committee had stated that the frontiers would be liable to be attacked; and although there existed at that time nothing which deserved the name of an Indian war, even yet depredations had been committed, murders perpetrated, and even the

soldiers of the United States massacred almost within sight of the garrisons. It would have been a vain attempt to pursue the Indians who had committed these outrages, for they were all mounted on fleet horses, while the troops of the United States consisted of infantry alone, and they were therefore compelled to endure all the insults and injuries so sure to arise from Indian hostility. But now the very evils which the committee had then predicted had actually occurred. It appeared that the Indians had attacked not merely the regular troops and the militia of Illinois, but had murdered women, old men, and children. It was impracticable to put a stop to these dreadful outrages, because the United States' troops had no horses on which to pursue the enemy. The mounted militia of Illinois had been called out, but their party had been partially defeated. It appeared that the Sacs, the Sioux, and the Pottawatomies, had united, and were collecting a formidable force. What was wanted in order to check them was the peculiar species of troops which the amendment proposed to call into action. Without troops of this description, though the number of our regulars should be tripled, no impression could be made upon the Indian force. But these mounted riflemen could assail the Indian villages, anticipate and break up associations and combinations which would otherwise be sure to be formed, and by obtaining and rapidly transmitting information might defeat the designs of the enemy. In an emergency the amount of expense was comparatively of little moment; but calculations which had carefully been made went to show that the proposed measure would be accompanied with the saving of the public money. In consequence of the United States' troops not being mounted, it had been necessary to call out the militia. The pay of these forces, the hireing of steamboats for their transportation, and all the other expenses incidental to such a service, had amounted to far more than it would have cost to mount and equip the regular troops. It was the understanding that the troops raised under this bill were to be kept in commission only so long as their services might be necessary, and during the winter they would be no expense to the Government. Mr. D. trusted that the amendment would receive the assent of the committee.

Mr. ASHLEY's amendment was rejected.

The amendment proposed by Mr. DUNCAN was agreed to—yeas 79, nays 81.

The committee rose, and reported the bill, and it was read a third time, and passed.

WEDNESDAY, June 13.

The Tariff—Reduction of Duties—Protection to Home Industry.

Mr. CHOATE, of Massachusetts, did not intend to engage in a general discussion of this truly boundless subject. Such a discussion, extending over the whole ground of debate, in imitation of the able examples which had been set, would be, within the limits of time which he had prescribed to himself, superficial and commonplace. Lengthened far enough to be at once comprehensive and thorough, if he were capable of conducting such a one, it would consume more time than the committee could spare, and demand more physical energy, if nothing else were wanting, than he possessed.

I wish only, sir, said Mr. C., to submit some considerations upon a single one of all the topics which belong to this delicate and complex deliberation. I wish to present one reason only why you should not abolish, or substantially alter, the existing national protective system. Much had been said for the producers of cotton, rice, and tobacco, and the consumers of imported British goods. I beg your indulgence while I say something in behalf of that portion of the American people whom your legislation and word of honor have invited or compelled to become manufacturers, or to connect their labor, their capital, their fortunes, their calculations for life, for themselves and for their children, remotely or directly with manufactures, and who are now menaced by an abandonment of that policy which has made them what they are, and placed them where they are.

The question at this moment pending before the committee, upon the amendment offered by my colleague (Mr. J. DAVIS) to the bill reported by the Committee on Manufactures, is, perhaps, a decisive question. If you adopt it with such modifications, and such further less important amendments, as are understood to be matured, and in readiness to be presented, you decide to preserve, substantially unimpaired, the American system as now established. Something you will also do, I hope it may be thought to be much, for conciliation and concession. You reduce the revenue to the needs of the Government, or at least you efficiently, and in good faith, begin the business of reduction. From one, perhaps from two articles, exclusively of Southern consumption, and of great importance to the South, negro clothing and cotton bagging, the protecting duty will, by exemption or drawback, be taken wholly away. But the general system of protection will remain untouched.

If, on the other hand, you reject this amendment, and pass the bill submitted by the Secretary of the Treasury, or that submitted by the Committee of Ways and Means, you prostrate that system. Looking at the rate of duties, and the mode and place of valuation therein prescribed, consulting with men in whose practical opinions I ought to have confidence, and judging as well as I may for myself, I am compelled to believe that each of those bills withdraws, and intends to withdraw, from our immature and springing manufactures, whatever of certain and substantial protection they now enjoy. The real question pending, therefore, is the broad one which gentlemen have dis-

cussed—Shall the existing protective system be maintained, or shall it be overthrown, either by direct abolition, or by compromise?

I have listened, sir, to this discussion with great interest. The magnitude of the consequences which all admit depend upon it, and the ability with which it has been sustained, have made it to me a memorable and instructive occasion. But in all that I have heard there has been only one plausible reason suggested for the abandonment of the protective system. That reason is, that the system operates with a local and partial severity upon the planting States. It is true that other considerations are pressed in argument. The gentleman from Georgia who has just resumed his seat, (Mr. WILDE,) does not confine himself exclusively to the sectional objection. Elsewhere, as well as in the South, there is hostility to the system. Elsewhere, as well as there, there are political economists and politicians who maintain that it rests upon an unsound theory of the wealth of nations; that it unduly depresses and unduly fosters individual interests; that it is aristocratical and anti-republican in its tendencies, and that it produces, in the long run, national loss and national immorality. Elsewhere, as well as there, there are pursuits on which some of its provisions do press with unquestionable severity. Everywhere, as well as there, it produces some good and some evil, like all other contrivances of man; and it divides public opinion, to some extent, like every other subject which addresses itself to the reason and passions of man. But I am sure I speak the sentiment of nine in ten of the committee when I say that, were it not for its alleged severity of pressure upon the South, there would be no plausibility whatsoever in this formidable attack upon it. But for this we should utterly reject the suggestion so often reiterated here and elsewhere, that the extinguishment of the national debt affords a fit opportunity for overthrowing it. We should see nothing at all of that crisis which inspires so much newspaper eloquence. What, but for this, should we do? Why, as a matter of course, as fast as we could, we should reduce the revenue to the wants of Government, but we should do this without so much as touching the principle of the protective portions of the tariff. Its details we might, now or hereafter, no doubt, re-examine. We might insert an item here, or strike out another there; we might restore the true value of the pound sterling; abolish the mysteries and abomination of minimums; alter the place and mode of appraising goods; substitute cash payments of duties for credits; and if any interest affected by the general system should be found to suffer more or gain less than others, we might relieve it by exemption or drawback; but the system itself, in its general principle, grand outlines, and substantial construction, nobody would dream of tampering with.

I repeat it, then, the only plausible ground of attack on this policy, here assumed, is this, that it oppresses the States of the South; that it blights their harvests, blasts their fields, and causes the grass to grow on the wharves, and in the great thoroughfares of their commercial cities; that it enhances the prices of all they buy, and depresses the prices of all they sell.

To this argument of the South, various answers may be given. I shall confine myself, as I have said, to one, and that a plain, practical, and intelligible answer. It is this: that the injury which the abandonment of this policy will do to the individuals, and to the interests and sections remotely or directly connected with, and dependent on, manufacturing and mechanical industry, and to the country, will outweigh, immeasurably, any rational estimate of the good which it will do to the South.

I take it, sir, if the fact be so, this is a proper argument to be addressed to the committee. It is a question of expediency we are debating. "The greatest good of the greatest number" is the turning consideration, is it not? If the act to which gentlemen urge you so zealously will occasion more evil than good, in a large and comprehensive estimate of its consequences, will you be persuaded into it?

It is true, certainly, that a different doctrine has been insinuated, if not openly pressed, in this discussion. It has been argued that this is not a question of expediency, but of right, justice, and principle. It has been argued that, no matter how great may be the amount of the pecuniary, economical, individual and national sacrifice on the one side, occasioned by the subversion of the protective policy, or how trivial the compensation on the other, our Southern brethren may demand its subversion as a matter of clear right and justice. It is argued, or it follows from what is argued, that they may put a cotton plantation, or a tobacco field, against a thousand millions of dollars of manufacturing values, against the occupations and property of seventeen States, and against the wealth, power, enjoyments, and hopes of a whole nation; and demand, as a claim of mere right, that the greater should be sacrificed, not for the benefit of the less, but on a groundless expectation of such a benefit. That "great interests" on which the gentleman from Virginia (Mr. BOULDIN) laid such significant emphasis, should prevail against small interests, and that the majority, in a matter within their constitutional competence, should prescribe rule to the minority, is vehemently denounced as unjust and intolerable.

Sir, I am afraid that this language conveys no useful meaning, nor any meaning at all, for the direction of our duty as legislators in this exigency. Observe that it is not the constitutional power of the majority in Congress to make a protecting tariff which gentlemen deny. They mean something more and something else than this. Probably they do not doubt that you have the constitutional power to collect a necessary and given amount of revenue, in such manner

as incidentally to extend protection to domestic industry. At least they do not very distinctly deny it. Observe, too, that they do not condescend to say that the majority ought to weigh this question deliberately and dispassionately, as a grave and difficult question of policy, with a liberal indulgence towards the opinions of the minority and with a determination if possible to reconcile rather than sacrifice the smaller interests, and the subordinate good to the greater. This is not the language of the gentlemen. They go a great way beyond and above this. They mean to say, or they say nothing to the purpose, that, in this particular case, the majority of this nation, acting according to the forms of the constitution, upon a subject within the jurisdiction of the General Government, have no right to determine the national policy, or have no right to determine it as the greatest good of the greatest number shall in the judgment of the majority require, but as the minority shall dictate. They assert a moral right, or some sort of right, not a constitutional one, to have the protecting system forthwith abandoned with reference to consequences. *Fiat justitia, ruat cœlum*, say they. Sir, the ardor of debate has hurried gentlemen into exaggerated expression or confusion of thought. Let us, to use the language of a distinguished individual, one of that Congress of which the gentleman from Georgia (Mr. WILDE) has just furnished us so many interesting recollections, and whose great names he has praised with so much candor and discrimination—"let us seek for clear ideas." I suppose myself, upon the general question of continuing or withdrawing protection, to be one of the majority of this Legislature. The constitutional power to continue or withdraw protection is conceded to us. By what principle of political morality ought we to regulate the exercise of this power? For all legislation which is admitted to be authorized by the constitution, the people of the United States are one people. The confederated character of the Government and the separate existence of the States, for all such legislation, are of no importance. The power of the majority, and the rule of political morality which should control its exercise, are precisely the same for such legislation, as if the Government were consolidated, and our people "one, indivisible, and homogeneous," as the report of the Committee of Ways and Means describes the Government and the people of England. Local interests, pursuits, and opinions there are, of course, different, conflicting, almost irreconcilable. The South, the North, the West, have each their own. We are called to deliberate upon a policy which affects them all; some favorably, others unfavorably, or less favorably. What is the rule of our right and our duty? Sir, we ought, if we could do so, to adopt a policy which shall reconcile and harmonize all these interests, and promote the good of all, and of all equally. But that is impossible. What then are we to do? Consult the greatest good of the greatest number; regardless where or on whom the particular hardship which all general policy must produce shall fall, but regretting that it should fall on anybody, and lightening it as well as we may. The moral right of the minority is that the majority shall exercise a sound discretion in good faith. The moral duty of the minority is acquiescence. If they are subjected to loss and hardship, and it be direct, specific, measurable in money, or such as the customs of civil societies recognize as a fit subject of compensation, they must be compensated. If not so, it is what the gentleman from South Carolina calls *damnum absque injuria*. Extreme cases provide for themselves, and are a law unto themselves. All this, Jeremy Bentham and the Westminster Review, to which we have been sent, in the course of this discussion, to learn political economy, would say is too clear for argument. I agree, certainly, that it is a very grave question of expediency, whether we shall perpetuate a system which is supposed to distribute its good and its evil sectionally; its good over one region, and its evil over another. I should hesitate a little longer perhaps upon a measure which was opposed by the entire people of a single State, than upon one which was opposed by an equal number of persons scattered through the twenty-four States. If the navigating interest of this country were confined to South Carolina, and her whole population were concerned in that interest, gentlemen might not think it expedient perhaps to burden it as they burden it now. The power and right of the majority, and the duty of the minority, would, however, remain the same.

Then, sir, to pass on. If the injury to other sections, interests, and individuals, and to the nation, will exceed the benefit to the South, the measure recommended is inexpedient, and must be rejected. Take, then, as well as you can, the dimensions of the evil of all sorts, which you will do if you overturn this system. Consider first the magnitude and character of the interests which it shelters, and their claims upon your care. I could not, in an hour, enumerate the various agricultural products and branches of mechanical and manufacturing industry, which make up the vast aggregate and *congeries*, so to speak, of your protected interests. It would be still less easy to express their value in "moneys numbered," or to gauge the height, depth, length, and breadth of the mischief which is meditated. You know, in general, that this interest has swollen to many hundred millions of dollars. You know that it comprehends many agricultural products to which the wisdom of all civilized nations has ascribed the first importance, and the whole circle of the plain, substantial, and useful arts, trades, and branches of manufacture, which characterize the judicious and practical industry of the Anglo-Saxon race of men, wheresoever upon earth they are found. You know that it is no local or subordinate interest. Viewing it

merely as a business which is pursued, and a property which is holden by individuals, it is pursued and holden in the East, in the central States, in the West, in the South, and in the Southwest; and thousands of those classes of our citizens whom the legislator would most wish to favor, laborers, mechanics, farmers, capitalists of middling fortunes, their own acquisition, have connected themselves inseparably with its prosperity and its decline. I might impress perhaps a more vivid and just conception of its importance and character, by entering into some details. But it is needless. I speak to statesmen who hold the fate of the whole national industry in their hands, who are now deliberating upon a measure pregnant with its fate, and they have surely prepared themselves for such a duty by a careful survey of its particular employments, as well as its grand aggregate and magnitude.

Remember now the claims which this industry has upon you. Sir, had these interests sprung spontaneously up amongst us, had they grown by your neglect, instead of having flourished by your care, no statesman would sacrifice or tamper with them. They are too vast and precious to be thrown away, "as a drunkard flings his treasure from him," and too complex and delicate to be subjected to bold theories and untried experiments. But to pass a bill in two sections, such as this of the Committee of Ways and Means, dooming the whole body of them to ruin, utter and immediate, no Government which God ever suffered to stand one hundred years upon the earth ever did such a deed. However they may have grown up, whencesoever they came, every Government deserving the name of a Government, every statesman aspiring to the character of a statesman, would regard them as a vast addition to the wealth, capacities, enjoyment, and power of the nation, and would cultivate them accordingly.

But attend to the nature and limitations of this pledge. What was the extent of the assurance given to the capital and labor of the country, by the passage of your various tariffs of protection? Why, you undertook, to those who acted on it, to continue to afford them such and so much protection against foreigners as you can afford by any practicable assessment of duties of revenue. You are not to raise revenue for protection. You raise it to defray the expenses of the Government, the army, the navy, civil list, pensions, and miscellanies, and you are to raise no more than is necessary for those purposes. The amount thus raised is first to be fixed by reference to those purposes, and then that amount is to be distributed upon the objects of importation, as to afford the utmost practicable incidental protection to domestic manufactures, if so much is necessary. If that blessed consummation so devoutly wished by the report of the Committee of Ways and Means should ever be realized, and the Government should come to be administered for nothing, the manufacturer gets no more protection in this form. If five millions should ever suffice to defray the expenses of administering it, that sum measures the limits of protection. So far the manufacturer takes his risk, because he reposes upon a system which couples protection with revenue, and makes protection subordinate to revenue.

Sir, I limit and qualify this legislative pledge still more strictly. I agree that, if after the adoption of the protective policy by this Government, after capital had been invested, and manufactures had begun to spring up beneath that policy; if, after all this, a new state of facts substantially should present itself; if it should be ascertained either that no further protection was necessary, the manufactures having outgrown that necessity, or that all further protection was unavailing and inexpedient, it being discovered to be impossible to introduce or sustain them by such means, or that unforeseen and great mischiefs to other paramount interests would attend their successful introduction by such means, then the pledge would be no longer obligatory, and Government might abandon the policy of protection without staining its honor, or impairing confidence in its justice. To this extent also the manufacturer takes his risk.

This brings us, sir, to the great question upon which this deliberation, in the view of a practical statesman, mainly turns. Has a state of facts, substantially new and material, arisen since the year 1824, or the year 1828, which discharges you of your pledge, and renders it honorable, expedient, and honest to abandon the protected interests, and change the policy then deliberately adopted? Sir, the Congress of 1824, and that of 1828, had their duty to do, and we have ours. They had their responsibilities, and we have ours. In the discharge of that duty, under the whole weight of that responsibility, they settled this policy, and, in view of the vast interests now embarked in it, we are to assume that it was rightly settled. Our business is to inquire whether, in the eight years which have since elapsed, matter *ex post facto* has arisen, requiring us to undo what they have done. Has it been ascertained, then, that no further protection is necessary, manufactures having outgrown such necessity? Nobody pretends this. It is admitted by every one who has debated this question here, and by the whole anti-tariff press, that continued protection to some extent is indispensable, if the object be to retain the manufacturers in their business, and keep up the wages of labor. If the object be to drive them out of their business, or to reduce the wages of free labor to a level with the wages of European pauperism, it is a different thing. Has it been ascertained, however, let it be further demanded, that the protected manufacturers have reached such a point that the rate of duties proposed by the bill submitted by the Secretary of the Treasury will afford them adequate protection? In other words, is

it ascertained that the proposed duties are as accurately adapted and adjusted to the present condition of domestic manufactures, as the existing duties were adapted to their condition when they were laid on.

In 1824 and 1828 certain protecting duties were imposed. This was done upon great consideration, and a careful study of this most complex subject in all its parts and all its bearings. It has not been intimated by any gentleman, and not a tittle of proof has been adduced on this occasion to show that those duties, taking into consideration the state of our manufactures then, were too high for their object—effectual protection. But it is a common and plausible thing to say that as a manufacture grows, and strikes its root deeper, and acquires hardihood and a self-sustaining capacity, as skill is improved, and capital flows into the employment, and domestic competition becomes adventurous and fortunate, that, then, less than the original degree of protection is necessary, and duties may come down somewhat. This is the argument from which there is most to dread. Sir, this project of reducing duties of protection, to keep pace with a supposed advancement of the manufacture, is the most delicate business that ever was undertaken. The problem is this: if sixty per cent. was only adequate protection in 1832? Nay, the problem is still more complicated. You propose to abolish minimums; and therefore the question is, what ad valorem duty now will be an exact equivalent for the artificial specific duty of the existing tariff? Here, precision, certainty, proof, accurate calculation, are every thing. Five per cent. more or less may make all the difference between a protecting duty and a duty which yields no protection. The loose, indolent, and mischievous suggestion so often repeated, with so little meaning, that manufactures can now to a great degree take care of themselves, is an unsafe guide of practical legislation. Where are the proofs on which you assert that this industry can sustain this reduction? Show your estimates. Work out the sum. Take the complex and careful calculation upon which the Congress of 1828 proceeded; go over item by item, and let us see upon what supposed alteration of circumstances you ground this perilous experiment. The cost of foreign production, the cost of domestic production, the dangers from fluctuations of foreign markets and business, and from frauds upon your own custom-houses, is there any new light upon these subjects? Have you examined witnesses? Have you so much as read an affidavit? Have you taken an observation? or do you go by dead reckoning? And, either way, do let us look over your day's work! Sir, they who are striving to overturn the system of protection, act intelligently and consistently in voting for this reduction of duty, if they can obtain no more, regardless of its extent and consequences. But I entreat the majority of this House, the friends and framers of the system, to be cautious how they receive the delusive, or, at the best, doubtful proposition, that a duty of one-half will as effectually protect the interests to which they are devoted, now, as the whole duty protected them when it was first imposed. They may voluntarily renounce protection, if they think the times demand the sacrifice. But let them not be deluded out of it; nor attempt to soothe the country by the pretence that it has been preserved, when they know it has not, or do not know that it has.

Upon the whole, sir, I submit that it has not been ascertained, since 1824 or 1828, that no further protection is necessary, nor that the proposed degree of reduced protection is all which is necessary.

Well, sir, has it been ascertained that protection is unavailing and inexpedient, it being now discovered to be impossible to introduce domestic manufactures by such means at all, or at least without great and disproportionate expenses? Let it be premised that it is only four years since the system was consummated. Even if you date back from 1824, it is quite too short a time to develop the fair action of a complex policy like this. He is a bold statesman, and that is a bold party and a bold Administration which will say the result of such an experiment has demonstrated that this kind of industry cannot be engrafted upon the stock of the masculine morality, energetic habits, the skill, perseverance, and frugality of this people. However the system had operated, nobody could say it had failed on a fair trial, and therefore should be abandoned. But I go further. I ask every member of this committee, if even the brief, and in some respects unfavorable experiment which has been made, does not prove conclusively that this seed is sown on good ground, and that, although it is yet but in the blade and the green ear, it will shoot higher, and bring forth of full corn in the ear a hundred fold. You have not overrated the capacities of your country, nor erred in your vision of her greatness. We see far enough to know that whatever of wealth, power, enjoyment, and aggrandizement, a diversified, persevering, rewarded, intellectual industry will bestow upon a nation, is already within our grasp. We see far enough to know that the same great power of the social world, which reared and which upholds the strong columns of England's ocean throne, will carry us up also to the same dazzling elevation, and cover us over, in the fulness of time, with the same brightness of glory. *Sic tibi etiam itur ad astra!*

Gentlemen say, however, that they admit you can introduce and establish manufactures by a protective policy, but it will cost too much The price paid by the consumers of the country is too high, and the remuneration which we anticipate is too remote and too inadequate. Sir, this does not come to the point. You expected it would cost something thus to introduce manufactures, when you adopted this policy. You expected a temporary enhancement of prices to

the consumers, and you looked forward to a great ultimate national compensation, overbalancing this sacrifice, "casting your bread upon the waters to receive it again after many days."

The true question is this: Has it been proved, by the experiment of these eight years, that it will cost more than you expected to establish manufactures by a protective policy? Do prices stand higher, or is domestic competition less enterprising and successful, or have manufactures driven more feebly than you anticipated, rendering it probable that you will be forced to give, not too much for the whistle, but more than you meant to give? Sir, the reverse of all this has happened. The friends and foes of the system have been alike disappointed by its splendid and quick success. Prices have fallen, from some cause, competition is crowded and bold, and manufactures have multiplied themselves, if it so pleases the gentleman from Tennessee, "beyond the dreams of avarice," or of enthusiasm.

Has the experiment proved that the successful introduction of manufactures, by aid of this kind of legislation, works out in any way an overbalance of national injury? Does it operate to diminish revenue, or to depress trade, navigation, commerce and agriculture, and the wages of labor? Do the great cities wither under this curse? Does the country wither under it? Does it begin to develop anti-republican and aristocratical influences in our society? No, sir; the gentleman from Tennessee himself admits that the eye of man never reposed upon a more soothing spectacle of general enjoyment and prosperity than that which this whole land—excepting only, what I do not except, the Southern region of misery—this moment presents. "Thrice happy, if we but knew our happiness!"

Will it be said, however, that public sentiment has at length declared against the system, and that this is a new fact, relieving you of your pledge, and requiring you to retrace your steps? Sir, it should be borne in mind that the Government settled this policy against a very divided public opinion, and therefore the continuance of such a divided opinion ought to be cautiously received, as a reason for receding from it. I do not know that in 1824 the weight of opinion was not against the protecting tariff. The literary press of this country and of England, the professed and perhaps sincere sentiments of British statesmen given out in Parliament about that time, the whole navigating and commercial interests, the united East and South, some of the first abilities of the day in Congress, encountered by great abilities, it is true, on the other side; these were against it, and yet it was adopted. Is anybody so weak as to suppose that a trial of eight years would convert all this body of opposition ever to the tariff? Can you then honorably urge this anticipated continuance of hostility, supposing it were undiminished, as a reason for giving up a system with which so many interests have since been intertwined, and which you adopted in defiance of that hostility? But, sir, this is not all. Every candid man who hears me, will admit that public sentiment is more favorable to the preservation of the tariff, than it was to its passage. The press, the elections, the voice of the Northern States, Maryland, of East Tennessee, every thing proves it.

Will it be said finally, that although opposition has diminished upon the whole, it has however assumed an anomalous, organized, semi-belligerent form in one State; that South Carolina will secede from the Union in five months, if you do not abandon the protected interests? Is this a new and material fact, which requires us to abandon them?

This is a topic of great delicacy. The less perhaps I say about it, the better. It may appear presumptuous in me, after the solemn asseveration of the gentleman from South Carolina, (Mr. MCDUFFIE,) whose great talents and energetic and persevering character so well fit him for fulfilling his own prediction, if he should be so minded, (I do not think he will,) to express the opinion that South Carolina will neither nullify nor secede; yet such is nevertheless my prevailing opinion, and certainly my hope. One thing I take leave to say, with the freedom which is the privilege and duty of the humblest in this body. She has no more right, and no fairer pretext, to leave the Union, if you continue this policy, than Massachusetts has to go, if you abandon it. No casuistry can distinguish between the two cases. In 1816, Massachusetts resisted the adoption of the policy, and South Carolina favored it. In 1824 and 1828, they stood together in opposition. It was adopted. Massachusetts acquiesced in the declared and constitutional will, withdrew her capital from the sea, and with no good grace at first began to manufacture. South Carolina stood out against the law. She asks you to repeal it to-day, because it does her a great injury. Massachusetts asks you not to repeal it, because that will do her a great injury. Where is the difference? But the gentleman said that it is a great principle South Carolina contends for; that her cause is glorious, commending her, whether she succeed or fail, to the approbation of the world and posterity.

Sir, there is no more principle on the South Carolina side of this controversy, than there is on the Massachusetts side of it. She would repeal the law, to benefit her cotton planters. We would retain it, to benefit our cotton, woollen, and glass manufacturers, and keep up the wages of free labor. It does no discredit to either State to admit that it is a matter of property and interest which is in dispute. I think Burke says that all the great contests for liberty in modern times have turned chiefly upon questions of taxing. But I cannot allow that one State has, in this particular, any advantage over the other.

Now, sir, I will judge other States by my own State. When I return to my constituents, and they ask me if this vote which I am to give will not help to drive South Carolina out of the Union, I shall answer no; that South Carolina is as patriotic as Massachusetts. I shall remind them that if this great question had gone against us; had Congress in good faith, and in the exercise of its best discretion, decided to abandon the protective system altogether, and thus had swept the "sweet and cheerful surface" of Massachusetts as by the fire of judgment; I shall remind them that she would not secede, and that South Carolina is no less nor more patriotic than Massachusetts. Of course, the press will be, as it is, inflammatory; turbulent conventions will be holden; lofty, passionate language will be uttered; rash overt acts even may be done. But I trust still that her statesmen, and men of lead, talent, and education; her moral and religious men; her men of weight, property, and character; and, above all, the old South Carolina rank and file, will stand steadfast for union, as they were once foremost and first for independence. In this all of us may be mistaken. But, at all events, I do not recognize, in the position of South Carolina, that new and unexpected fact which I demand as the condition upon which this pledge may be disregarded, and these interests sacrificed.

Look, then, sir, at the evil which you will do. You violate in some sort the plighted faith of the nation. You inflict an injury upon those who have expected every thing from your honor, beyond estimate and beyond compensation. Sir, nobody can certainly foretell the manner or the degree of the effect which the bill reported by the Committee of Ways and Means will produce. The deluge will sweep over the whole land, and swell up to the tops of the mountains. How many may escape drowning, what new formations may grow, and after what interval, upon the ruins of that old and fair creation that will have perished in the flood? Sir, this is a speculation into which I have no means or spirit to enter. Some consequences, however, of passing such a bill as that, are manifest. That vast mass of property in manufactures on hand; buildings, machinery, stock in all stages of the process, fabrics unsold, wool, sheep, and the rest, would fall at once, and irrecoverably and incalculably in value. Wheels will stop; operatives will be dismissed; bankruptcy will follow; and sudden and violent transfers of property, and great speculations on great sacrifices. A shock will be given to industry through all its thousand employments. After some interval, perhaps, of depression and apprehension, capitalists would resume the business with diminished confidence, reduced and unsteady profits, and the wages of free labor at nine pence a day. Sir, whether manufacturing industry does or does not survive this blow, the statesman, the party, the Administration, which inflicts it, has a great deal to answer for in this world.

But this is not half the evil. The statesman who does this deed, is guilty of prodigally squandering away a national property worth more than the public domain. He flings from him, like a spendthrift heir, all that has yet been done for the establishment of domestic manufactures. He turns the shadow upon the dial many degrees backwards: and now, after so much skill has been acquired, and so much capital turned in; just when the first evils and sacrifices which attend the introduction of this industry by legislative aid, are beginning to be compensated; just when prices and profits are fallen to their lowest desirable point, and wages are steady and reasonable, and competition eager; just when that which was sown in weakness is rising in strength, he throws it all as a useless thing away. Sir, I do not believe that Adam Smith or Mr. Huskisson, if they were alive and here to-day, would give you such counsel. All men admit, and free trade theorists as fully as any, that manufactures are indispensable to the higher attainments of national greatness, and consideration, and wealth, and enjoyment. Nobody has demonstrated this proposition so well as Adam Smith. What they contend for is, that you shall not force manufactures upon our people by commercial regulation. They are a great good, only you may give too much for it. But they all admit that manufactures, however unphilosophically introduced and sustained, when established, are a perennial spring of resource and energy to a State. They all admit that it is the industry of England, helped forward perhaps by a hundred foolish laws of Edward or Elizabeth, which has placed her at the head of modern civilization, and put into her hands more than the sceptre of the sea. Why, the gentleman from Virginia himself (Mr. BOULDIN) agrees with Alexander Hamilton in his estimate of the national importance of manufacturing industry. Now you choose to begin by forcing this species of industry by a protecting tariff. Grant that you started wrong. It is better to go through than to go back. It is more economical to do so. Do you not see that the country has grown to your laws? Occupation, capital, hope, which is the life of the world, are they not rapidly accommodating themselves to this policy? The first bad effects, the disturbance and derangement which mark the moment of its introduction, are disappearing. Consumers of all classes feel the benefits of a full domestic competition. A great body of skill is generated, worth more, in the contemplation of philosophical statesmanship, than a thousand mines of barbaric gold. I suspect, therefore, that if Adam Smith were to come into this Hall at this moment, he would tell us that to be sure we had started foolishly; that we had set at naught his wisest counsels, and were rather an unmanageable set of pupils in politi-

cal economy; but that we had gone so far in, that it was better to wade through than to wade back. He would say, I imagine, that although it was a bad calculation to prepare this ground and sow this seed, at so much expense of time and money, and against all the theories of husbandry, it would be a still worse one, now that the season is so far advanced, and the crop is half leg high, to throw down the fence, and turn the cattle in, and wait through another long and dreary winter, in the dream of witnessing a spontaneous crop of American wheat. But whatever he might say, sure I am the strong common sense of the people of this country will tell you this.

I observed just now that all men admit the value of manufactures to a nation, although they do not admit that it is expedient to force their growth by legislative stimulants. It escaped my recollection at the moment, that the gentleman from Tennessee (Mr. BELL) seemed to argue not merely against the protective system, but against manufacturing industry itself, as dangerous or undesirable. He argued that European feudal policy regarded it with favor, because it threw great masses of property into few hands, depressing and impoverishing the body of the people; an aristocratical arrangement, having a tendency to uphold a privileged order, and furnishing reservoirs and cisterns, whence princes and barons might draw the pecuniary means of foreign or domestic war. Our policy was different, he argued, and would regard manufacturing industry differently. Sir, without intending to go out of my way to discuss this interesting topic, I will say that the gentleman's theory, however ingeniously supported, contradicts the whole history of the middle ages, and the whole history of European politics and industry. That history tells us that the small commercial and manufacturing corporations which grew up by the seashores of all the feudal kingdoms of Europe, from Italy to England, and from Spain to the Hanse Towns, were the first seats of popular liberty in modern times. They were the first, and they were long the only spots where any thing like a free people existed, after the wane of the republican glory of Greece and Rome; and it was the intelligence and spirit of this very population which rent the gorgeous and bloody trappings, and beat down the castle walls of feudal aristocracy, and gave to the world its first idea of representative, popular Government. Modern European liberty was literally the daughter of manufacturing and commercial industry and riches. "These pursuits gave men wealth, and wealth gave them leisure, and leisure reflection, and reflection taught them the knowledge and the worth of social right." The manufacturers and merchants of Europe, two hundred years before America was discovered, almost in every feudal State, had compelled the prince and the nobles to erect them and their representatives into a third branch of the national Parliament; and Robertson observes "that all the efforts for liberty, in every country in Europe, have been made by this new power of the legislature." It is quite remarkable, that in the time of James I., as the accomplished historian of his reign informs us, "the puritans of England, the framers of the English constitution, and the founders of the free republics, and undefiled religion of the new world, were of the middle class, wealthy traders, substantial shopkeepers, mechanics, journeymen, and manufacturers; and that they resided chiefly in the county of Norfolk, Suffolk, and Essex, in London, and the clothing towns of Gloucester, the most populous and most civilized quarters of England, the principal seat of manufactures, the asylum of foreign Protestants, and the scene of a large proportion of the martyrdoms of Mary." Let me read to the gentleman a sentence or two from an article, in perhaps the ablest of the British tory journals, Blackwood's Magazine. It was written in 1831; and the writer is attempting to trace the origin and causes of that spirit of reform which at this moment shakes all England like an earthquake: "The two great powers operating on human affairs, which are producing this progressive increase of democratic influence, are the extension of manufactures, and the influence of the daily press. Manufactures, in every age and quarter of the globe, have been the fruitful source of democratic feeling. We need not appeal to history for this eternal truth; its exemplification is too manifest in the present time to admit a moment's doubt. The manufacturers reside in small towns. The members whom they return to Parliament will be the faithful mirror of their democratic opinions. Every successive year brings one of the rural boroughs within the vortex of manufacturing wealth, and the contagion of manufacturing democracy. Look at Preston and others, and an idea may be formed of the democratic tendency of small manufacturing towns." I really do not think it necessary to say more to prove that the industry which we ask you to protect is not hostile to the genius of our institutions, and the spirit of our civil policy.

You see the evil which you will do. Who now will show us any good to compensate for so much evil? This brings me to the interesting question: is the tariff productive of real, considerable, uncompensated injury to the South? I do not intend to discuss the question at length. I have examined it as well as I could; not for the purpose of debating it here, because I thought my duty to the South, my own constituents, and to the country, required it. The opinion which I have formed, and on which I shall act, I ask briefly to declare, without troubling you with the grounds of it at large.

I do not think, then, that it is made out, either as a doctrine of political economy by reasoning, or as a proposition of fact by proof, that the existing protective system does produce evil in the South. Four of the seven Southern States, Georgia, Tennessee, Alabama,

and Mississipipi, are as prosperous as any States in the Union. In the other three, Virginia, North Carolina, and South Carolina, there is no decline, or distress, or decay, but there is probably a diminished or retarded growth of prosperity. Even there, population advances more rapidly than in the tariff States of New Hampshire, Connecticut, New Jersey, or Delaware, and very nearly as rapidly as in the tariff State of Massachusetts. The attempt to trace the cause of this diminished prosperity, whatever may be the degree of it, to the tariff, has been a total failure. Other facts, notorious and admitted, explain all the appearances. The over-production of the great staple of cotton, and its consequent fall in price; the superior ease and cheapness with which it can be raised in Alabama and Louisiana, compared with South Carolina; the advantage for commerce possessed by New York over Charleston; the fall of all prices and profits, and the wages of labor all over the world; the great change of times within a few years requiring to be met, but not yet met, by a corresponding change of economy, and the habits of the South: these causes and others, including the peculiar character of the great body of Southern labor, explain every thing which is here relied on as indicating the bad effects of the tariff. To the argument, that the tariff enhances prices to the consumer, there are three answers. The first is, that if this be so, the evil is not sectional, but thrown impartially upon the whole consumption of the United States. The second is, that there is no proof, and no reason to believe, that prices would stand permanently lower if the protective policy were now abandoned, than they will permanently stand under the steady operation of that policy. And the third is, that if there is sectional grievance, there is sectional compensation also. The enhanced value of slaves as a marketable article to supply the growing demand in the Southwest, the withdrawal of capital from cotton to sugar in Louisiana, the increasing demand for cotton and flour in the North, the increasing ability of the Northern population to consume generally, creating an enlarging demand for all sorts of foreign goods, and an enlarging correspondent demand for Southern exports to pay for those goods; in all these ways, if there is sectional grievance, there is sectional compensation too. To the other argument, that the tariff affects the producer of Southern staples, over and above its effect on him as a consumer, I cannot yield assent. It is said, by Voltaire, I think, that no man is obliged to believe what he does not understand; and I confess I do not comprehend how the tariff lessens the price or the demand for cotton; and whether its proceeds come home in goods or specie, and whoever brings them, I see no clear and certain unfavorable effect upon Southern productive labor or capital. But having said this, I am willing to admit that it does not fully meet the difficulty. Be it that there is no ground of complaint on the part of our brethren of the South. Be it that there is no real evil produced by the tariff, and removable by its appeal. There is evil, nevertheless, occasioned by it, which it is most desirable to remove. There is excitement which one would wish to allay. There is alienation which one would wish to win back to its first love. It is not quite enough to refute the reasoning, and explain away the evidence of the South. It is not enough to taunt her with the recollection of that long series of hostile policy with which she pursued the industry of New England when she held the power. It is not enough to show, as surely it can be shown, that she was herself the author of the very policy which she now reprobates. Still the difficulty recurs. There is a great sectional excitement; and that, whether groundless or not, is, perhaps, *per se*, a case to act on. It is desirable to allay the excitement. Yes, certainly. But how? Sir, my humble scheme is this: I think, in the language of medical men, that the case requires topical treatment, local applications. Search out the sectional grievance, if you can find it. Find what are the articles exclusively of Southern consumption, and important in the economy of the South, and relieve them of all protecting duty. Strike them out of the statute. For so much let there be no tariff, and let them be fabricated in England, that the American Union may be preserved; and let all others be, as they now are, effectually protected. There is negro clothing: gentlemen intimate that this is an unimportant concession. Why, sir, a distinguished member of the other branch of this Legislature from Virginia, said these words in debate in that body during the present session: "I urged (he is relating a conversation with another United States Senator) the abandonment of duties on negro clothing. I said it will be kindly taken at the South, and go far to produce harmony." Let it be given, then, to kind feeling and harmony.

One remark, sir, suggested by the impressive concluding observations of the gentleman from Georgia, (Mr. WILDE,) who has just resumed his seat, and I will relieve the committee. I confess that I have more than once during this discussion been led to fear, with the gentleman from Georgia, in a moment of despondency, that the diversity of employment growing up in the opposite extremities of this country: manufactures, and what you may call the agriculture of manufactures in the East, and that which may be called the agriculture of commerce in the South; the consequent diversity of habits, opinions, and supposed or real interests which this may produce; the occasional struggles in which the two parties may be involved to get control of the national policy, and wield that to their several advantage; the eternal and inherent hostility which exists between free trade doctrine and measures and protective doctrine and measures; and that still deeper, still more unappeasable hostility which

the gentleman fears may grow up between free labor and the employers of slave labor—I say, sir, I have thought it possible, as he has, that these causes may sever this Union. There seems to be, I have feared, ground laid for a separation of the States, not so much in the faults of man, as in the nature of things.

But this feeling is all allayed and rebuked by the recollection (I hope the gentleman from Georgia may derive consolation in the same way) that Washington long ago foresaw all these imaginary causes of disunion, and regarded them very differently. He foresaw, in his lifetime, that the East would be the seat of manufactures, and the South the region of agriculture, to the end of the world. He foresaw, too, that national legislation would be occasionally invoked to protect the domestic industry of the East against foreign regulation and foreign competition; and thus be made to press, perhaps with severity, upon the agriculture and commerce of the South. But he contemplated all this with exultation, not fear. He saw in this diversity of pursuits and interests, not the seeds of dissolution, but the ties of union, "stronger than links of iron"—"a triple cord which no man can break." In his farewell address, written in 1796, after these different, not adverse tendencies of labor and capital had developed themselves; after it was plain that the East would manufacture, and the South raise cotton, rice, and tobacco, through all time; after Alexander Hamilton, his bosom friend, had unfolded the national uses and value of manufacturing industry, and had recommended all sorts of protection, and prohibition, and bounty, to introduce and sustain it; after Congress had passed one act expressly for the encouragement of domestic manufactures, thus making it plain to his foresight that national legislation would be brought in aid of the great object; after all this, he expresses himself, not with apprehension, but with confidence, or, rather let me say, with joy. He says: "In your interest, every portion of our country finds the most commanding motive for carefully guarding and preserving the union of the whole. The North, in an unrestrained intercourse with the South, protected by the equal laws of a friendly Government, finds in the production of the latter great additional resources of maritime and commercial enterprise, and precious materials of manufacturing industry. The South, in the same intercourse, benefiting by the same agency of the North, sees its agriculture grow, and its commerce expand." Sir, the condition of our coasting trade and internal commerce, at this moment, is the best possible commentary on the wisdom of this scripture.

What then is there, sir, so very terrible in the signs of these times? What is this great crisis upon which gentlemen are so eloquent? What if there be some excitement of feeling, some harsh words, and some lowering looks between the brethren of this wide household? What if South Carolina, and Pennsylvania, and Massachusetts, do feel strongly, and express themselves strongly, on this question? All these things must needs be, and may very safely be. They are only part of the price! how inadequate the price!—which every nation pays for greatness and liberty. All signal and durable national fame and empire are reached, if they ever are reached, through such occasional and temporary tribulation as this. The history of every free State which ever existed, filling space enough to leave a history, is an unbroken record of internal strife, and sharp civil contention, and the collisions of interests and feelings which the good men of the time thought utterly irreconcilable, but which were yet harmoniously reconciled; the appointed discipline, by means of which they severally ascended to their places in the system of the world. Instead, then, sir, of anticipating with the gentleman from Georgia the time when, in pursuance of the pathetic suggestion of the patriarch which he has just repeated, we shall divide our flocks and herds, and take each our several way, "that there be no more strife between us;" instead of looking with so much apprehension upon this diversity of pursuits and interests, let us adopt a more cheerful theory. Let us agree to see in it, as long as we can, "merely that combination and that opposition of interests, that action and that counteraction which, in the natural and the political world, from the reciprocal struggle of discordant powers, draws out the harmony of the universe." This is the language of one of the wisest men and most accomplished minds that ever lived. I hope our example may illustrate its truth.

Mr. CLAYTON, of Georgia, moved for the rising of the committee; but the motion was lost—yeas 32, nays 68.

No quorum having voted, the committee rose, and reported the fact to the House; and*

Mr. SPEIGHT moved a call of the House.

Mr. WICKLIFFE advocated, and Mr. CLAYTON opposed the motion.

Mr. DAVIS, of South Carolina, moved an adjournment—yeas 68, nays 74.

[Lights were now brought into the Hall.]

The House again went into committee.

Mr. KERR again moved for the rising of the committee, and the motion at length succeeded—yeas 61, nays 60.

Mr. REED then moved an adjournment.

Mr. VERPLANCK demanded the yeas and nays; which being ordered and taken, stood as follows—yeas 75, nays 55.

So the House adjourned at eight o'clock.

* This circumstance occurred five times in the course of this Tariff discussion—a sign that the debate had become uninteresting. It is much abridged here. When a Committee of the Whole finds itself without a quorum, it can do nothing more. It must rise and report the fact to the House, which immediately orders a call of the House, and when a sufficient number of members are collected, the Committee of the Whole is gone into again.

THURSDAY, June 14.

Pre-Emption Rights.

The House resumed the consideration of the bill from the Senate, granting the right of pre-emption to settlers on the public lands. The question being on concurring with the amendment of Mr. WICKLIFFE, as modified by the amendments submitted by Mr. IRVING and Mr. VINTON.

Mr. WHITE, of Florida, said it could not be necessary, after the very satisfactory explanation of the principles of the bill under consideration by the chairman of the committee to the House yesterday, for him to occupy much of its attention at this late period of its session. He could not, however, in justice to his constituents, who were so deeply interested, allow the occasion to pass without presenting some views which had not been adverted to by others in the debate. It is now too late, continued Mr. W., to question the pre-emption policy. It is true, that, for ten years prior to 1826, it had been abandoned; but its abandonment had brought no adequate consideration to the public treasury for the individual oppression it produced throughout the new States and Territories. I assert it as a fact, sustained by the history of the country, that there has never been a period so prolific in fraud and speculation as between the years 1816 and 1826—the former the period of the first report against this system, and the latter the revival of the policy in favor of occupants in the Territory of Florida. I will hazard another general remark, and that is, that the land system has never been so prosperous to the country, or to the Government, as since the renewal of the pre-emption rights to settlers on the public lands. As some gentlemen here have never before had seats on this floor, and may not have turned their attention to the subject, I trust I shall be pardoned for a brief explanation of the provisions of the bill and the amendment.

The original bill, as it passed the Senate, was the one introduced into that body last year, the object of which was to place those settlers on the public lands who were prevented from availing themselves of the provisions of the act of 1829—'30, in consequence of the public surveys not having been made prior to the period fixed in that law as the limitation for the presentation and proof of the claims. This provision is one of such obvious justice and propriety, that it is presumed there is not a member of this House who will object to it.

The amendment gives a pre-emption to all *bona fide* occupants up to the 1st of January, 1832. I am in favor of the amendment, as well as the original bill; and, as the amendment will supersede the bill, and is more beneficial in its character, I trust it will be adopted.

This right of pre-emption, as the word imports, gives to the occupant the privilege of entering the quarter section of land on which he has erected a house, and made improvements, at the minimum price. These settlers are the pioneers of the forest, the bold adventurers who penetrate the wilderness, open roads, establish ferries, and bridge creeks, for the accommodation of the larger purchasers who follow them, and take up larger portions of the public domain.

If there is any one here who can so far forget what is due to this enterprising class of our fellow-citizens as to make an estimate of dollars and cents in the sale of the small tract upon which his humble cottage is established, I would ask him to look at the returns of the land sales of all the new States, and particularly of the Territory of Florida. He will find that the sales of public lands, upon an average, do not exceed five cents upon the acre the minimum price. What, then, is the result of the refusal to pass this bill? The little cabin and small field of the poor man is offered at public auction; and, if it sell for more than the Government price, the additional value has been given to it by his improvement, which no just or liberal Government would ever avail itself of. This, however, as far as my experience goes, is not the usual course. The occupant is left at the mercy of unfeeling and heartless speculators, who live upon the distresses of the poor. A land sale is advertised; the purchasers attend; the poor settler has scraped together just enough to purchase at one dollar and a quarter per acre. The Shylocks and speculators say to him, give me one, two, or three hundred dollars, or I will buy your improvement, and turn your wife and children into the woods. The money is not to be had, and a note, horse, gun, or cow, is given, and the land at last sold at the price proposed in this bill. The Government is not benefited, and one of its citizens who would, at any moment, hazard his life in its defence, is oppressed and defrauded. This is no picture of fancy; it is of daily occurrence. I have even heard of instances in which the last cow has been taken from a poor man, and the small sum of five dollars, not to bid for the improvement of an occupant upon the public lands. The object of this law is to put an end to this vile and infamous traffic. Poverty has evils enough, without adding to it petty oppressions and frauds of this sort.

The worthy gentleman from North Carolina, (Mr. WILLIAMS,) for whose opinions, generally, I have great respect, has told us that there is a law prohibiting settlements upon the public lands, and that this bill is intended to reward the violators of that law.

I had occasion, some years ago, to examine this question, and to debate it in this House, in opposition to a gentleman from Ohio, who has steadily (since Ohio has had all the benefit of these laws) opposed the extension of the policy to other portions of the Union, or to its provinces. I then maintained, to the satisfaction of every gentleman, friend or enemy to the bill, that there was no such law now in

force as that referred to by the honorable gentleman from North Carolina. I have not now time to go into this question again. I will only remark that there was such a law passed in 1807, the object of which was to prevent settlements on the public lands without a permit from officers of the Government. That law was designed for a class of floating Spanish and French concessions, and was intended to prevent their location and possession, under them, after the cession of Louisiana.

That provision was local in its object, and was practically repealed in 1814, and has never been considered by the Government, nor the occupants, in force since. The settlers provided for in this bill are not trespassers and violators of law, as some gentlemen suppose.

I will not detain the House by continuing this argument. It is well known that in the year succeeding the pre-emption law of 1829–'30, the sales of the public lands increased more than a million of dollars. It is the truest policy of this Government to encourage the extension of our settlements to the borders of the confederacy, and to give to our poor, enterprising citizens an interest in the soil which they will be called upon to defend whenever it shall be invaded.

Mr. SEVIER opposed the postponement, and

Mr. MERCER advocated it; when the question being taken, the subject was postponed until to-morrow.

Virginia Claims.

The bill on the subject of the Virginia claims next coming up,

Mr. BARBOUR read some extracts from the report of Mr. Secretary Hamilton in reference to the allowance of claims in cases where the General Government had had the services of troops raised by the States, and argued to show that if the evidence had been ready in 1790, the claims in the bill would have been allowed and settled, together with others of a similar nature, at that time. He pressed the equitable consideration, that as the Government had received the services of the troops in question, the Government, and not the State of Virginia, was bound to remunerate their services.

Mr. ROOT took the floor in opposition to the bill, and spoke until the expiration of the hour.

The Tariff—Discontent of the South.

The House then went into Committee of the Whole, and resumed the subject of the tariff.

Mr. BATES, of Massachusetts, addressed the committee in support of the amendment moved by Mr. DAVIS, of Massachusetts, in reference to the duty on woollens, and confined his argument almost exclusively to that branch of the subject, which he illustrated by putting a variety of cases to show the effect and the propriety of protection.

Mr. CLAYTON, of Georgia, followed. In rising, he expressed his intention to offer an amendment to the bill, in effect as follows:

1st. After the 1st of January, 1835, all duties should be ad valorem, and for no other object but revenue.

2d. That for the first year all duties above should be reduced to thirty-five per cent.; for the second twenty-five; and after that they should be regularly fifteen per cent. until altered by law.

3d. That, for the purpose of constitutionally and equally protecting manufactures, Congress should freely give its consent to any State that chose to manufacture, to lay such duties as it might deem necessary to encourage that business, within its own limits, upon any imports or exports to or from any foreign nation whatever; provided said duties were paid into the federal Treasury.

Mr. CLAYTON then proceeded to say that almost every gentleman who had addressed the committee had pronounced this a most grave and serious question. Judging from the extraordinary apathy which seems to prevail in this body, said Mr. C., it would not be so considered by me; and I should much sooner take it for a farce than a tragedy. It is a remarkable fact, Mr. Chairman, and I doubt whether due credit will be given to its relation, that while this whole country, from its centre to its circumference, is under the tremor of deep anxiety; when all eyes are directed to this very point for safety from the impending storm; when in all quarters there is one general expression of concern, prompted by a sensibility which has received its last increase from the peculiar urgency of the crisis; no such feeling pervades the representatives of the people assembled in this Hall. So indifferent have members been to this discussion, that speakers have been compelled to address empty seats. Five times during this debate have you been obliged to descend from your chair, and report to the Speaker that there was not a quorum in the House. What a fact to communicate to the American people! And, sir, those who have generally remained, have either been franking documents or dozing over newspapers. [Here Mr. C. was called to order by a member, as improperly reflecting upon the members of the House. Mr. C. observed that the gentleman ought to remember that the present company is always excepted. He hoped they would take nothing of his remarks to themselves; if they did, he would barely say they were made with a view to get their attention, and having succeeded in what most had failed to obtain, he would proceed to the subject.] Mr. Chairman, the question before us is an important one, and if appreciated in the degree of its profound interest, and the still more absorbing character of its probable results, it involves a responsibility too big for utterance. To my mind, admonished by facts, and warned by the feelings of the country, I am almost tempted to predict that, unless an auspicious issue attends the present deliberations, they are the last that will ever again engage the attention of this body

within these walls. It is not now a question of dollars and cents, but of liberty and equality. Every thing done on this occasion will soon be delivered over to history, and he who now stands by the cause of freedom, posterity will stand by him. A fame of enduring honor awaits the firm, and a name of as lasting infamy shall follow the faithless.

In the name of every thing that is sacred, how are grievances to be redressed that are denied all credit, against which every avenue of conviction is closed? Of what avail is reasoning with that individual whose eye is blind to the truth, whose ear is shut to the evidence, whose mind is imbued with prejudice, whose heart is locked against justice, and whose verdict is sought against himself? I confess, Mr. Chairman, it is a hopeless undertaking, and thus far all argument has proved as useless as it is hopeless; but, sir, we have arrived at a crisis when debate must cease, and this matter will, perhaps, have to be referred to some other arbitrament. It is extremely desirable, therefore, that we lay our manifesto before the world, and there is no better place from which it shall issue than the Halls of Congress, the great seat and source of our injury. To speak to the people of the South, through the high privilege of the freedom of debate, is now all that is left to us, and it is my intention on the present occasion to use that right to the utmost of my ability.

When Great Britain acknowledged the independence of the colonies, they were as independent of each other as they were of the world. There was an individual moment of time, and perhaps the brightest of their existence, when they were left to their own exclusive self-government. Their confederation was altogether voluntary. If, at the termination of the revolution, their debt, produced by that struggle, had been discharged, and if all wars could have ceased from that eventful period, every one perceives there would not have been any earthly reason for the Union. The States individually could have regulated all the concerns necessary to municipal government. The honest discharge of their debt, and the dread of intestine and foreign wars, were, therefore, the sole motive to the confederation; any other inducement is idle and ridiculous. It was physical and not moral force, it was strength and not intelligence, needed and sought by the States. Even under their connection with the parent country, they were always competent to their own self-government, without the aid of each other's councils.

Notwithstanding the "articles of confederation" carried us successfully through the war, doubtless by virtue of the great cause which it was serving, and the common dangers and sufferings of the people, yet they were found too weak for a state of peace, and General Washington procured the Congress of that day to propose to the States the adoption of a system, the avowed object of which was "to obtain from the States substantial funds for funding the whole debt of the United States." This was the seed that was cast upon the bosom of the States, and from which has sprung that tremendous growth witnessed in the present power of the Union. So jealous, however, were the States that some mischief would ensue if the articles of confederation be disturbed, that, for a long time, they refused this and other similar propositions. At length they yielded to constant and urgent importunity, and a convention met in May, '87, not to frame a constitution, for they had no such powers, but, once assembled, they took upon themselves to produce that giant that is now striding over the States, and crushing at every step some of their invaluable rights.

I have now done with the constitutional point, and I make no apology for the great length of the argument employed on this head, for I readily own, if the subject of protecting manufactures depended alone upon the question of expediency, unless it was carried to a state of manifest oppression, of which I shall speak hereafter, I should have nothing to say, for that is a matter legitimately within the power of Congress; and although I should greatly deplore the adoption and continued prosecution of a policy obviously grinding down the resources of one class of the States, to build up and advance the prosperity of another of the same confederacy, yet it would be ours to submit under the terms of the compact. All argument is vain against cupidity supported by power; but if it is unconstitutional, it is our right, nay it is our duty, to resist, and to use every weapon in our power, from the voice of reason up to the still hoarser tones of rebellion.

I proceed now to examine the question in reference to its expediency; and under two aspects this branch will be considered.

1. The great inequality and injustice of the system.

2. Its dangerous effect upon the harmony of the Union.

On the first point, suffer me, Mr. Chairman, to present one serious reflection before I proceed to the argument. It is by close thinking we sometimes get upon the track of truth which leads to the most fortunate results. This system commenced, and is continued, by petitions for relief. Mr. Chairman, has any one ever considered where relief comes from? No one will be so credulous as to believe that relief is manufactured in this Hall, and sent out to the supplicating sufferers; if not, where does it come from? Certainly from some other quarter of the country that does not complain. Now, does not every one perceive, that whencesoever the relief is taken, just precisely in proportion to the amount withdrawn must that part suffer? And would they not have a right, and be entitled to respect, too, to turn round, and petition for relief also? What right has Congress to rob one portion of country to hush the mouths of another? If the North suffers,

is it right to make the South, against her will, relieve that suffering? No; the truth is, when the South petitions for relief, they are told "you lie," you do not suffer, or, if you do, it is greatly less than you imagine; at all events, you must submit to the will of a majority; and, notwithstanding the Federal Government was framed to take care of the interests of the whole, yet some portions of the country must suffer, and there is no help for it. Is this the kind of reply that a free people ought to submit to? You may think so, but depend upon it, a very short time will find you in a woful mistake. This reflection brings me to the assertion of a principle, which, if any man pretends to controvert, I wish to hear from him before I proceed any further. I confidently lay down this position, that Government cannot make one freeman work for another without his consent. It cannot take the property of one and give it to another. That whatever would be wrong in the acts of Government, as between man and man, is equally wrong as between ten or ten millions of men. Does any one deny this? None! Then I proceed. If any casualty should, in the ways of Providence, reduce the four quarters of the Union to but one man apiece, and he of the East should be a shipbuilder, of the North a cotton spinner, of the West a hemp weaver, and of the South a cotton planter, in what condition would the tariff system find these four individuals? Mark well, I beseech you, Mr. Chairman, their exact relative situations, for this very picture is a faithful illustration of the bill on your table, and I pronounce there is no getting away from it. Your bill, as plain as a bill can talk in vernacular language, says to the hemp weaver, and pointing at the same time to the cotton planter, you may make him pay you, besides a fair price for your bagging, five cents a yard as a bounty for your labor. It is true he works as hard as you do, but you are a man of capital, and, therefore, must be protected. He shall wrap his cotton in your bagging, or pay a higher price to some one else for that article. Your bill says also to the ship builder, that same cotton planter shall pay you a bounty for carrying his cotton to the spinner. To the spinner, it says he shall sell it to you, and buy your cloths; or, if he dares to carry it to any other market, he shall pay you a tax of eight cents a yard for every yard of cottons he buys elsewhere. Now, I ask you, Mr. Chairman, is this just? Would the Government dare to put its law into this kind of language as between one laborer and another? And, if it would not, how can it do so as between whole communities? Would the principle be changed from the case I have put, if the laborers and their pursuits were multiplied to ten thousand? And if that single cotton planter could not bear the draughts of the other three taskmasters, will the whole class of planters be in any better situation from the multiplied classes of manufacturers constantly preying upon his labor? No, sir; they cannot and will not bear it; and, I repeat, they are preparing to signify it to you in a way that cannot be misunderstood.

The remarks I have made naturally conduct me to an examination of the burdens we think we bear, though the manufacturers think it is all delusion. When the bill of the gentleman from South Carolina (Mr. McDUFFIE's) was read, and I found it proposed to lay a duty of twenty-five per cent. on all foreign articles, I asked myself, is it possible that any thing more could in conscience be demanded? When I reflect that twenty-five per cent. was a tax of the fourth part of a man's income, for nine men out of ten spend all their income, and when I recollected, also, that most men of money are contented with twenty-five per cent. interest, I wondered if it were possible that the manufacturers were in the habit of receiving this amount, and were yet anxious to get more. There is hardly one man in a thousand believes that he pays twenty-five cents on every dollar that he lays out; and yet, sir, what will be his astonishment when he comes to learn that he pays the double of it? The rejection of the bill just mentioned proves that the tax is over twenty-five per cent., or they would have taken it. Then, what is it? The Secretary of the Treasury, in his calculations submitted to this House, places it at forty-seven and a half per cent.; other calculations make it a fraction over fifty. Now, I demand, if it be less than either of these sums, that some friend of the tariff immediately rise in his place, and state what it is. Finding no opposition to this statement, I set it down as granted, that the duty is somewhere in the neighborhood of fifty per cent. upon an average, on all the usual articles of consumption, such as cottons, woollens, iron, salt, sugar, coffee, and all kinds of tools and farming utensils. I shall, then, for the sake of easy calculation, place it at fifty. This point being adjusted, I proceed to state another, which is necessary to my purpose, and in which there can be little or no dispute. It is this: the price of an article is increased the amount of the duty. The establishment of this position will be postponed until I come to answer the argument of the gentleman from Pennsylvania (Mr. STEWART) on that subject. One other point is also admitted, viz., that the consumer pays the duty, and this for the present, is enough for my purpose, though I think I shall hereafter be able to sustain the views of the gentleman from South Carolina, that the producer pays the tax. These three things being settled, to wit, first, that the duty is fifty per cent.; second, that articles purchased are increased in price the amount of the duty; and, third, that the consumer pays the duty, I proceed to present an illustration of its burdensome effects upon the planters of the South. Suppose, Mr. Chairman, instead of the Atlantic Ocean, a straight, narrow river, running from Maine to Mobile, divided us from the old world; and suppose all the different factories in the United States, instead of being

clustered in groups in the Northern and Middle States, were strung, at suitable intervals, all along on this side of this dividing stream; imagine similar and corresponding factories on the other side, exactly opposite to those on this; and that a convenient bridge leads from one to the other: here, then, we have presented not only two similar places of supplies, but two markets for the produce of the planters. Instead of sending their produce to these markets, as is usual, through the agency of merchants, each planter becomes his own merchant. Now, sir, suppose one presents himself with his cotton at a woollen factory, and desires to purchase a bale of blankets, he is told the price is fifty dollars, but that, on the other side of the stream, a precisely similar bale can be had for twenty-five. Having an easy and convenient bridge, every one perceives he would have no hesitation in selecting this cheaper market. But when he arrives at the foot of the bridge, he is met by a custom-house officer, who informs him that if he buys his blankets on the other side of the river, he will have to pay one-half of them to the Government, so that he might as well lay out his money with the factory man on this side. He inquires why is it that I have to pay half my produce to the Government? He is answered, all the owners of factories strung up and down this river have united and made their poor workmen believe they ought to be protected by Government, and they have been artfully put up to clamor for relief, until the Government has compelled you to pay half your blankets to me for her use, or half your money to them, and now you may take your choice. Of course, he puts himself to no further trouble, returns, makes the purchase, and loses twenty-five dollars, which the manufacturer pockets. That this is the precise operation of the tariff system upon every article which a planter purchases, is as certain as death; and I defy any one to detect a fallacy in the statement. And, sir, here is the proper place to exhibit the effect which this system has upon our produce. Admit for the sake of argument, as stated by the gentleman from South Carolina, (Mr. DRAYTON,) that a repeal of the tariff would not affect the price of cotton, yet is it not obvious that if the price of cotton is eight dollars per hundred, and half that amount is paid in tax, whenever laid out, it cannot be worth but four dollars to the planter? Now, take off this tax, and though the price might not rise, yet no one can doubt the cotton is worth four dollars more to him, in the additional necessaries which it will command.

As to the condition of the South, in relation to the common comforts of life, it has no possible dependence upon the North. With its forty-five millions of exports, if that immense sum could be permitted to circulate among themselves, it would, in reference to the conveniences of living, and the facilities of subsistence, become one of the happiest regions of the earth. It would give life to commerce with its thousand connections. It would give a new spring to agriculture, and fresh energy to our various artisans; and, instead of decaying villages and towns, the whole country would smile with tokens of the most extended prosperity. And, sir, this brings me to the consideration of an idea advanced by the gentleman from Pennsylvania, (Mr. CRAWFORD,) who contrasted the past and present situation of the North, while it was without the aid of Southern taxation. Then it was drooping under the wasting malady of poverty, now it is flourishing in all the bloom of invigorating activity; then it presented one wide surface of stagnant employment, now all was a living current of plenty and gladness; then doubt and dejection hung upon every countenance, now confidence and animation beam from every eye. Sir, I could not but say to myself, how selfish is man—that man, too, who should be a brother, and that brother who should feel for a brother's woes. Did it never occur to the gentleman, while glowing with the emotions of joy at the elysian happiness of his immediate home, that, peradventure some other section of his country was yet groaning under that condition which formed the dark shade of the pleasing picture of prosperity which he has just portrayed? Mr. Chairman, if some stranger to our land, accompanied by a Mentor who knew all its varied relations, should enter it in the North, and pervade it from Maine to Mobile, having all its minute parts and characteristics explained by his guide, what would he behold? Through the cold region of the North, amidst its bald and barren hills and sterile ridges, he will discover cheerful hamlets, glistening villages, flourishing towns springing up as by magic, and crowded cities displaying, by their marble columns and gilded balustrades, the most gorgeous wealth—throughout all the country, until he reaches the river that flows by this hill, will he perceive full employment for labor, well rewarded; contentment shining on every face; riches, in all their gayest profusion, ministering their luxuries to some, competency distributing her milder comforts to others, and sufficiency dealing out its more moderate supplies to all; but, sir, when he crosses the Potomac, what will he discover? In this land of fertility—of most propitious soil and genial climate, where every valuable production of nature is reared, where the earth teems with a perpetual golden harvest, springing from its fruitful plains or mineral mountains, what, I repeat, will he behold? Farms whose orchards have decayed, whose houses are tumbling into ruins, whose fences have rotted and sunk into the bosom of briars—villages whose grassgrown footways are choked with weeds, whose habitations on the outskirts have been left to the slumbers of some strolling flock, whose once smiling gardens, in the beautiful language of the poet, present nothing now

"But matted shrubs, where birds forget to sing,
And silent bats in drowsy clusters cling."

And, sir, this is the picture that belongs, but with a few exceptions, to all the towns and cities of this once flourishing country. I could give you a most feeling account of a city in my own State, once the pride of the South, the busy mart of one of the greatest staples of the earth, the source of wealth, the seat then and now of hospitality, and every generous virtue; but what is the fate of Savannah? Let her withering commerce and her sinking dwellings tell the story; and, sir, to your American system will she point you for the cause of all her misfortunes. Why is it, this stranger would naturally inquire, that I perceive such a difference between these two great sections of country, especially when such a mysterious contradiction is exhibited as to their natural advantages? On one side, every thing that could make a country prosperous, while, on the other, there seems to be nothing that would prevent the exact reverse. His director would be compelled to answer, it has all been done by the singular device of legislation. The mere operation of human law, actuated by the selfishness of human nature, has done this foul deed of mischief; has drawn, secretly and insidiously, all the resources of the South to the Northern and Middle States. We have generally been instructed to believe that man alone, in his individual character, is disposed to be a despot, but a regulation of a whole community is sometimes as great a tyrant, and we are often deceived and lulled into security under the tame belief that it is intended to protect, and not to destroy, when it oftens happens that some combination of robbers or usurpers have artfully transferred their power into the form of law, and, in that way, as effectually accomplished the purposes of fraud and ambition as if achieved by the dagger or the fagot. And in all the country of the South, from Virginia to Georgia, it may be truly said—

> "Amidst thy bowers the tyrant's hand is seen,
> And desolation saddens all thy green."

I come now to the second ground of expediency, that the system "is dangerous to the peace and harmony of the Union." Mr. Chairman, this country was never, perhaps, except in time of war, in a higher degree of excitement. We hear of meetings at the North; indeed, very large ones have lately been gotten up to dictate to the House the course it must pursue; we hear of Legislatures pursuing the same course, and saying the protecting system shall not only not be repealed, but it shall not be relaxed; we hear of the presses saying that even the measures of compromise suggested, with the best intentions, by the Administration, for the sake of peace, will be resisted by "a million of musket-bearing people." Now, sir, when the South acts or talks thus, it is treason! She must suffer, and if she complains in a tone any thing above the strain of supplication, she is rebuked for insolence, and charged with a design to dismember the Union. Mr. Chairman, this people cannot bear every thing, and a portentous sign has lately appeared in the South. Two States have met together, and told to each other the story of their wrongs in a temper that cannot be mistaken. Take care how you trifle with a people struggling for liberty; you live but one generation removed from a case, which I shall presently show you, that affords the lesson of how much an injured people can suffer, and exactly at what point they will avenge their insults. Two thousand people, burning with a just sense of their sufferings, have recently declared of a gallant son of the South, whose chivalry and patriotism deserved the sentiment, in view of a determination to resist oppression, if not relieved, that he was "a patriot without fear and without reproach. He has generously devoted himself to the defence of Southern rights and Southern interests, and is qualified for every crisis. And Southern people will support him in the great cause in every peril, and at every hazard." Mark well this feeling! It stirs a spirit that will never flag, until it warms and swells every bosom from the Potomac to the Mississippi.

Mr. Chairman, history is full of instructive admonitions on the subject of invaded liberty, and how certain the resentments of a free people will be aroused in defence of that most precious of all Heaven's best gifts to man. While the few are insidious, the many are patient; while tyranny is secret and crafty, democracy is open, generous, and forbearing; but there is a crisis in every thing, and a point beyond which even slavery will not suffer. We should learn wisdom from experience. Our own annals present the most illustrious case of human persecution, resisted by the most consummate courage and daring. We have a lesson, not yet sixty years old, replete with a moral that can never be too often consulted; it is a counsel that cannot deceive; it is a monitor that will not betray; it possesses a feeling that touches the heart without anguish, though it is connected with a story that must forever bear upon our regrets. It is this struggle for liberty, this memorable contest for principle, I shall this day invoke in behalf of a people subjected to the same unholy oppression. It is a shining light that cannot be extinguished; and, before Heaven, in favor of my suffering countrymen, will I snatch this torch of the revolution, and snuff it and flash it in your faces.

In speaking of the causes which led to the revolution, a distinguished orator, (Joel Barlow,) just after its happy termination, brilliantly observed: "It was not the quantity of the tax, it was not the mode of appropriation, but it was the right of the demand, that was called in question. Upon this the people deliberated; this they discussed in a cool and dispassionate manner; and this they opposed, in every shape that an artful and systematic Ministry could devise, for more than ten years before they assumed the sword. This single circumstance, aside from

the magnitude of the contest, will stamp a peculiar glory on the American revolution, and mark it as a distinguished era in the history of mankind."

We are not only questioning the "right of the demand," but we have the peculiar aggravation of not only an intolerable "quantity" of "tax," but that tax is transferred from the bosom of our people, and "appropriated" in other countries. Before I proceed to the comparison which it is my intention to make, it is necessary distinctly to state the exact principle in both cases, and then show with what remarkable fidelity the facts will sustain the analogy. The colonies were, as the States are now, independent of each other; and Great Britain, the mother country, constituted their federal head. To them the mother country was what the General Government now is to the States. The latter is our federal head. Great Britain maintained that she had a right "to tax the colonies in all cases whatever." The colonies denied it, and contended that she had only the right to tax them through the regulation of commerce as revenue, and for their benefit; that such taxes could not be taken and applied to any other purpose whatever; that no direct tax at all could be laid upon them without their consent, and then only for the use of the colonies, and to be granted by their own Legislatures. The General Government maintains that she has a right to "tax the States in all cases whatever." The States deny this right, and contend that it can only tax them, through the regulation of commerce, as revenue, for the single purpose alone of supporting the Government, and consequently for their benefit generally and equally; and that, as Great Britain could not tax the colonies for her own benefit at home, or carry their money out of the colonies to be spent on objects unconnected with their colonial condition, so the General Government cannot tax the States for the benefit of manufactures, a distinct interest from that of the Government; in other words, it cannot take money, by way of taxation, from one portion of the States, to be spent in another, to support an individual interest different from that of the Union, where all are alike concerned. The proposition is now fairly made. Let any superficial reader examine the causes which led to the revolution, and he will find that the colonies, though as States they are now greatly more oppressed in some quarters, yet then they flashed like lightning at the slightest invasion of their rights. Great Britain in two hundred years, with all her power and ingenuity, and apparently with tenfold more right, was never able, in the internal regulations of the colonies, to drive the first entering wedge into what they considered unconstitutional taxation; nor in that time did she accomplish what the General Government has done in the short space of eighteen years. Various were the acts, and at various times and under various states of feeling were they urged, to establish the principle that the mother country had the right "to bind the colonies in all cases whatever." The result of such an unnatural and abhorrent experiment must be fresh upon the recollection of every one, save, perhaps, the misguided and infatuated rulers of the General Government. Long and ardent were their opposition against the attempts of the British Parliament to rivet upon them her port laws, navigation acts, admiralty regulations, new modes of trial, of appointing officers, stamp acts, and tariffs for regulating their trade. Opinions, resulting from their oppressions, stimulated them to mitigated resistance, which spread through America, were intrepidly maintained against the usurpations of the mother country, and finally terminated in their acknowledged independence.

Before I close this branch of the subject, I must refer the committee to a part of Dr. Franklin's examination before a committee of Parliament on the subject of the discontents in the colonies; for it is so pertinent to the case of the South, that it were treacherous in me to omit it. Among the vast variety of questions that were asked him, all of which he answered with great wisdom, and the most unusual promptness, were the following, viz:

"Do not you think they would submit to the stamp act, if it was modified, the obnoxious parts taken out, and the duty reduced to some particulars of small moment? No; they will never submit to it.

"Have you not heard of the resolution of this House and of the House of Lords, asserting the right of Parliament relating to America, including a power to tax the people there? [For the manufacturers.] Yes, I have heard of such resolutions.

"What will be the opinion of the Americans on those resolutions? They will think them unconstitutional and unjust.

"But who is to judge of that, Britain or the colony? Those that feel can best judge."

Yes, sir, and we who feel will judge, come what will!

Said this same committee to the American sage:

"If the act is not repealed, what do you think will be the consequences? A total loss of the respect and affection the people of America bear to the mother country, and of all the commerce that depends on that respect and affection."

And I, too, will answer for the South, if your tariff act is not repealed, away go all the respect and affection which can alone make this Union any longer desirable.

What was the issue of all this, Mr. Chairman? Need I tell you? It must be fresh in the recollection of every man present. Indeed, if it were not from a knowledge of the history of that day, which some, perhaps, care not to know, and others strive to forget, yet there is an occasion once a year when it is brought to their remembrance by a sacred political observance which is designed for that especial pur-

pose. I hold in my hand the homily that is used on that sabbath of our independence, a part of which it is my intention to read on this occasion as containing my doctrines, and I care not for the name by which it is called, for names are nothing, against tyranny and usurpation; and under these titles I rank every thing that violates the constitution of the country. What I am about to read perhaps was never read before but with feelings of delight, except as to those against whose despotism it was levelled, and whose oppressions it was intended to blast. It may now, for aught I know, encounter another exception.

"We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that amongst these are life, liberty, and the pursuit of happiness. That, to secure these rights, Governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of Government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute new Government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to affect their safety and happiness. Prudence indeed will dictate that Governments long established should not be changed for light and transient causes; and, accordingly, all experience hath shown that mankind are more disposed to suffer, while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpation, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such Government, and to provide new guards for their future security."

No man can object to this doctrine. If there be such a one, let him step forth before the democracy of America, and I will venture to predict he will stand out confessed an American monopolist. Among the enumeration of grievances published to the world in that memorable instrument, part of which I have just read, the following are to be found:

"For cutting off our trade with all parts of the world.

"For imposing taxes upon us without our consent.

"In every stage of these oppressions, we have petitioned for redress in the most humble terms; our repeated petitions have been answered only by repeated injury."

Now, sir, listen to the catastrophe, and may it sink deep into the hearts of those who are rushing to a similar destiny, not only deaf to all entreaties, but blind to those dire consequences from which the land is not yet relieved, and the blood of which has scarcely ceased smoking to heaven.

"A prince whose character is thus marked by every act which may define a tyrant, is unfit to be ruler of a free people."

Enough of quotations! Can principles be plainer, or language more explicit? Who misunderstands this doctrine? Will it be said that ours is a case different from the colonies? That we are represented in Congress, and, consequently, whatever taxes are imposed, are imposed by our representatives? Sir, this is solemn mockery, it is adding insult to injury! What, sir, break down the clear distinctions in the constitution, prostrate the limits of power in that sacred instrument intended to form boundaries around the will of the majority for the safe protection of the minority, let in the unlimited and uncontrollable discretion of that majority to do what they please, and then say we are represented, and must submit! Oh! insolent and insufferable position! Sir, I pronounce that the Southern States could not be more insulted and abused if they were separated from the rest of the States, and the river that runs by this city was widened to the breadth of the Atlantic Ocean, and the majority which now wields their destiny was to retire to Philadelphia, and there, without a single man of the minority, pass the system that now grinds them to the dust, and attempt to carry it into effect over that then distant people. Does mixing a feeble, powerless, hand-bound minority among a reckless majority, who are resolved to overleap the entrenchments thrown around the rights of the former, and to know no bounds but those of their will, so effectually answer the great ends of equal representation, that whatever is done shall be justified under that valuable principle? Sir, this cannot be seriously maintained. The members of the South might as well be at home, for mingling themselves here with this unchanged majority, where they have neither weight nor influence, only serves to have them mocked with the pretension that their burdens are imposed upon their people with their own consent.

Does any one believe that the people of the United States meant no more by the revolution than a mere change of masters? That the love of novelty alone has induced them to strike off one set of fetters, merely to impose another precisely similar, because they are of their own forging? Why struggle through every species of suffering, why faint under every hardship, why waste the wealth and sacrifice the youth of an infant country, to maintain and defend the principle of self-internal government, and the unalienable right of property, if, when the work was accomplished, they should madly turn round, and throw themselves, in new-made manacles, at the feet of another tyrant? The thing is too intolerable for the weakest credulity. Motives always determine the character of an action, and the revolution of a nation is guided by as settled an intent, and has as fixed an object, as the smallest movement of an individual; and the just reproach of folly or madness is alike applicable to either. What would have been thought of an individual who should thus have acted? We have here, then, clearly indicated the motive of the revolution.

It was not a change of tyrants. It was to secure and preserve unimpaired that separate and exclusive independence which belonged to the States, not in their joint but several capacity. Having triumphed in their perilous undertaking, not, however, without encountering the most unspeakable difficulties, which left in their train jealousies they could never appease, and burdens they could not discharge, which exposed them to dissensions from within, or invasion from without; they were willing to transfer, and nothing more, the right of protection which had just been forfeited by the mother country to the more tender and parental care of the Federal Government. It was physical and not moral force; it was strength and not intelligence, needed and sought by the States. Any thing more than this never was intended.

One word, sir, on the subject of the Union, and I have done. We have been accused of a want of attachment to the Union. Such a charge I fling back in the teeth of our accusers. What! the South disaffected to the Union! The South that suffered so much in the revolutionary war from the common enemy, from savages on her frontier, and tories, worse than savages, in her very heart! The South, that so gallantly opened her purse and shed her blood in the last war with the British and Indians, when in another quarter——. But I forbear. It cannot be believed that the South is disloyal. Who were the supporters of Jefferson, and Madison, and Monroe? And who, more than Jefferson, Madison, and Monroe, were the defenders of those republican principles which moved, directed, and consummated the revolution of '76, and were happily laid at the foundation of the Federal Government? Did the South keep back when the North refused to give up a sacrifice rightfully necessary to support and defend the principles of the constitution? No, sir; it is a slander to whisper the slightest suspicion of disloyalty against the South. We are attached, warmly attached, to the Union; not, it is true, for its money, for we pay all and get nothing; but it is for those free and liberal principles so dear to the rights of man; those principles that form the best security for his life, liberty, and property, without which neither union nor any thing else is worth preserving. In the words of a great man, give us union, but give us liberty first. Do not deprive us of all our blessings under the empty sound of union. Do not steal from us our senses under the bewitching charm of union. Do not, like the Madagascar bat, suck us to death while you are fanning us to sleep by the cooling breezes of your wide-spread wings of union. We begin to undersand all this delusion, and we are awake to the sufferings you have insidiously inflicted upon us by the talisman of union. If you will not withdraw your exactions, if you will not live with us upon the terms of equal rights, I tell you in the language of plain truth, to which, perhaps, you are unaccustomed, we shall certainly part from you, and part, I hope, in peace. Then you may hug to yourselves your darling American system; then you may tax your people to your hearts' content; and then, if you choose, you may take to yourselves other gods; but, as for me and my house, we will serve the Lord of Liberty, and all the people of the South shall cry, amen.

FRIDAY, June 15.

The Tariff—Discontent of the South.

Mr. SUTHERLAND resumed his argument in support of the protective system, which he insisted had had its origin in Virginia. In support of this position he made large quotations from the Richmond Enquirer and the writings of Mr. Jefferson. He adverted to the part taken by Georgia at the time the constitution was adopted, and contrasted it with the course taken by her representatives on the present occasion. He commented upon the amount of protection enjoyed by Southern commodities, and applied the arguments advanced by the opponents of the system to this branch of legislative protection, insisting that if they would consent to remove the protecting duty on cotton, the Northern manufacturers could get the Pernambuco cotton in abundance and on very advantageous terms. He inveighed against the positions taken by Southern gentlemen as not going to modify, but utterly to destroy the protective system, and with it the entire mass of manufactures at the North. As to a secession of Georgia, he would not ask the gentleman from that State (Mr. CLAYTON) to stay in the Union because he knew he would stay, and could not do otherwise consistently with his own interest. He closed his remarks with a strong impression of his own attachment to the Union, and determination to abide by it to the uttermost.

Mr. LEWIS, of Alabama, said: Mr. Chairman, in this examination of the constitutionality of the tariff, I feel bound to vindicate our ancestors from the charge of authorizing, in the constitution, a modification of the very principle which produced the revolution. Who can witness the present struggle of the Southern States for their constitutional rights, without being struck with the identity of the contest which the American colonies waged with Great Britain? Sir, the history of the two periods may be written in almost the same words—unconstitutional oppression on the part of both Governments; increasing discontent among the oppressed portion, first manifested in petitions, and afterwards assuming the bolder language of remonstrance. How long have the Southern States, in their devotion to the Union, begged and implored their rights? They have petitioned and remonstrated until their remonstrances have been "treated with contempt." So far from producing any effect, their burdens have been increased; and while the majority are buying up the different sections of the Union by the plunder of the South, and are

gradually extending the circle of their power, we are insultingly told we must submit to their oppressions because they are a majority. Sir, the unanimity of the British Parliament in passing the stamp act was greater than that which has imposed on us our burdens. There were but two or three individuals who had the courage to vote against the passage of that bill, and yet our ancestors dared to think it unconstitutional, and, in the face of "an armed tyranny," to resist its execution.

Sir, there is an infatuation in power which makes it insensible to the signs of increasing discontent which are everywhere gathering around. Gentlemen on this floor believe that the excitement, if not the opposition to this system in the South, is confined to South Carolina; and that it has been produced there by disaffected politicians. Sir, this is the very language of the royal proclamations in relation to Massachusetts. She was denounced for her disaffection, and the loyalty and fidelity of the other colonies were played off in contrast with what was called her "rebellious spirit." It was considered and treated as a Massachusetts excitement, until the whole continent was in a blaze. The feeling of old Faneuil Hall became the sentiment of all America: "That the British Parliament had no right to tax the colonies for the benefit of the mother country; and if the colonies once abandoned the right to tax themselves, and suffered Parliament to tax them at discretion, they were no longer free." Let gentlemen not deceive themselves into a belief that the other Southern States can or will separate from South Carolina in the coming struggle for their common rights, whatever apparent difference there may be as to the manner in which this struggle shall commence.

Sir, the first cause of offence to the colonies was the imposition of a duty, or, as the gentleman from Georgia has well expressed it, a tariff on West India produce coming into the colonial ports. This was resented as an attempt to force the colonies to carry on their trade with the West Indies through the mother country. It was denounced as a measure which would make the commerce of the States tributary to the commerce of Old England. We denounce the tariff on the very principle that it makes the Southern States tributary to the manufactures of New England. The object of the British Government then was to restrict the trade of the colonies to Old England: the object of this Government is to restrict the trade of the South to New England. The only difference in the parallel is, that the colonies were confined to the best market on earth, while it is attempted to confine the Southern States to a market which requires of them a discriminating duty, averaging forty-five per cent., to make it equal to the other markets of the world.

Mr. Chairman, it would be a matter of surprise to one who has witnessed the patience with which the Southern States have submitted to the heavy and increasing exactions of the tariff laws, to be informed that their immediate ancestors, not more than fifty-odd years ago, had resisted, with their lives, an inconsiderable tax on stamped paper, and a threepence duty on tea. Sir, the amount of these oppressions was indeed trifling, compared with those under which the Southern States have submitted for the last twelve years. Tea was a beverage drank only by the rich; and the duty imposed was of the lightest revenue character. What is our present condition? We are taxed on every article of necessary consumption, imported from abroad, not threepence, but to an average of forty-five per cent.; not on the luxuries of life which are used by the rich, but upon the sugar, the salt, the iron, the flannels, the blankets, even the implements of labor with which the industrious poor earn their bread. Sir, is there any difference in principle which consecrates the oppressions which we now endure? None. Every Southern State has declared them unjust and unconstitutional, and, therefore, a palpable usurpation of their rights; and it remains to be seen whether they will disgrace their fathers by eventual submission to unauthorized oppression.

Mr. Chairman, the great principle which produced the revolution, whatever modification it may have assumed in the different acts of British oppression, was a denial of the right, asserted by the British Crown, of taxation without representation. That denial meant nothing more nor less than the assertion of that great conservative principle of English liberty, that taxation must be by the consent of those who pay the taxes, or, in other words, that the supplies can be voted only by those who pay them. Sir, that single principle is worth, in practice, more than all the constitutions under the sun. I defy the tyrant's power if you give me the right to withhold his supplies. What are his armies, his navies, his dungeons, his guillotine, without money, which has been called the sinew of war, and which is equally the sinew of oppression? Cut it in twain, and the arm of power is unnerved. Withhold the supplies, and you put a check on the most determined oppression, by teaching the tyrant his absolute dependence on the people. It is this, and this only, which has, through so many ages, wrestled English liberty from the iron grasp of her kings and her nobility. Our ancestors believed they had embodied this fine conception of Anglo-Saxon liberty in our constitution, by providing that all revenue bills shall originate in the House of Representatives, the popular branch of our Legislature; and, to guard against oppressive sectional taxation, they provided that all duties, imposts, and excises should be uniform throughout the United States. By a perversion of the spirit of this last-mentioned provision, even under a most rigid and jesuitical adherence to its form, the principle that those who pay the taxes shall vote the supplies, has been completely, and to all practical purposes, inverted; and those who pay no taxes, but who

are bountied by taxation, exclusively exercise the right of imposing the taxes. Sir, I would ask what agency the Southern States have had in passing a revenue bill since 1816. Have not the representatives from those States, almost "*en masse*," voted against every revenue measure since that period; while the representatives from the Northern States, to whom, by their own admissions, the collection of taxes by imports operates as a bounty, have forced their revenue laws on the South without her consent? Has not each successive tariff been in the nature of a new and direct contribution, levied by one section of the Union on the labor of the other? Sir, is not the South practically unrepresented on this floor, on all questions of taxation? Do not the tax receivers, instead of the tax payers, fix the amount of the taxes? Of what avail have been the speeches, the remonstrances, and even the votes of Southern members against the determined efforts of a majority, who were intent in imposing burdens on the South? Has the presence of Southern members had any other effect, during this solemn mockery of Southern rights, than to give the semblance of deliberation to predetermined injustice, and to make themselves instrumental, in appearance, to their own oppressions? Sir, the British Parliament, to cloak their injustice, offered, through Dr. Franklin, to give the colonies a representation in proportion to their numbers. That sagacious statesman had the good sense to reject the proposal; telling them that such representation would be a minority in Parliament, too weak to resist any scheme of injustice, and thus delusion would be added to oppression. I ask if the Southern States, with their present representation on this floor, are not in precisely the same situation in which the colonies would have been placed with their nominal representation in Parliament.

Mr. Chairman, I propose, very briefly, to take a financial view of the amount of burdens imposed on the Southern States, and of the unequal expenditure of the revenue collected by imposts. Sir, by an examination of this proposition, we shall be enabled to estimate the relative amount of freedom which we enjoy under the present action of this Government. Personal rights are at this day secure throughout the whole civilized world, and taxation is the only true measure of liberty. In ruder ages, the whip, the chain, and the dungeon, were the instruments of oppression; but the tyranny of modern times consists almost exclusively in an invasion of the rights of property, and not the rights of person. Taxation is the subtle process which increases power, while it destroys the means of resisting it. Complete slavery consists in the right, on the part of the master or the Government, to the whole labor of the slave, and the degrees of slavery can be fixed only by the relative amount of contribution levied upon the labor of the individual. Sir, measure the rights of the Southern planter by this standard, and what superiority of freedom do you assign him over the subjects of the English, French, or Spanish monarchies? It is true, the whip is not on our backs, nor the chains on our arms. The English, French, or Spanish subjects can say as much, and more. Each of them can exult in the declaration that his Government levies a smaller contribution on his yearly income, than the joint action of the State and Federal Governments levies on the income of the Southern planter. Sir, I invite a comparison between the amount of taxes paid by the Southern planter, and the amount paid by the population of Great Britain, France, or Spain. If we consider the taxation of the South in the twofold aspect of the quantity collected, and the small portion returned to them in the shape of Government expenditure, the history of the world does not present an instance of such a perpetual and exhausting drain. The resources of no other country on earth could have borne it half the time. The reason that we are not reduced to the condition of beggars and lazaroni, like a portion of the population of Europe, is not that we are less tax-ridden than the most oppressed of them, but because of the abundance and fertility of our lands, and the inexhaustible value of our staples, which gives a larger income to our labor than is enjoyed by any other people under the sun.

But, Mr. Chairman, how does this inequality of expenditure swell into amount of oppression, when we consider facts as they are; that the section receiving so small a portion of expenditure pays two-thirds of the whole revenue of the Government? Sir, to sum up the whole suffering of the South, I would not confine it either to the tariff or to internal improvement; but to the joint action of collecting and disbursing the revenue, by which the Southern States pay five dollars into the Treasury, and get one out; while the Northern States pay one in, and get five out.

Mr. Chairman, the honorable gentleman from South Carolina (Mr. MCDUFFIE) has, I think, conclusively proven that a duty of forty-five per cent. upon those articles which we take in exchange for our cotton is equivalent to an export duty of forty-five per cent. on our cotton. This proposition has been denied, but not disproven. Gentlemen on the other side have not even attempted to meet the argument; nor can it be met. Sir, it is not contended that we receive forty-five per cent. less in money for our cotton than we would have received if there had been no duty; but that our cotton loses its relative value in the markets of the world, by the very fact, that, by duties, you add forty-five per cent. to the price of those articles which we take in exchange for our cotton. Sir, this is a consequence which the cotton planter cannot avoid. His cotton will purchase fewer of those articles which are enhanced in price by a forty-five per cent. duty. If he sells his cotton for money, that money will purchase forty-five per cent. less on account of duties to that amount on the articles which he wishes to

purchase. Sir, for all practical purposes, the Government had just as well take forty-five out of every hundred bales of my cotton, and make a present of it, before my face, to the manufacturer, as to compel me, by an impost duty, to pay him forty-five per cent. more for his manufactures than I should have given him but for the duty; or to pay forty-five per cent. at the custom house for his benefit, when I import such articles as he manufactures. An injustice is shared by the whole population of the South, whose consumption is made dearer by duties, while the price of their labor is not enhanced in a corresponding degree.

Mr. Chairman, we have been told that a repeal of this system will prostrate the productive labor and capital of the North. Sir, is not this an admission of the absolute dependence of the North upon the bounties which they are permitted by this Government to levy on the South? If the manufacturers cannot live without these contributions on Southern labor, can we be expected to sustain ourselves under such perpetual exactions? Sir, at the formation of this Government, the South was rich and the North poor. Now the scene is changed; and while the North is prosperous beyond example, the States of Virginia, North Carolina, South Carolina, and Georgia, present the appearance of so many conquered and plundered provinces.

The agricultural interest of the South is, at this time, much more depressed than the manufacturing interest of the North. If this be not a system of sectional plunder, let gentlemen play out their own principles, by giving to others what they claim for themselves. Sir, are not the rights of the cotton planter as sacred as those of the manufacturer? Is he not equally entitled to the protection of a Government, one-half of whose revenue is collected upon the cotton trade alone? Has he not been for years tributary to the manufacturer? And would the forty-five per cent. bounty on cotton be any thing more than the contribution he now furnishes to the manufacturer? Sir, if gentlemen refuse to place the cotton grower on a footing with the favored interests of the country, they need not be surprised if a sense of injustice and oppression should drive him to withhold from this Government that contribution which it has so long and so unjustly levied on his industry.

Mr. Chairman, the crisis has at length arrived when this question must be settled on a permanent basis. The Southern people have looked with delight to the payment of the public debt, as a period when they might expect some alleviation of their burdens. There is no longer an excuse or pretext for continuing the present rate of duties, except for the single purpose of making the South tributary to the North. We have borne, patiently, our unequal burdens in discharging a debt incurred in our common defence, and we now demand of you to lessen our taxes to the amount annually paid in the discharge of that debt. Partaking in the common feeling of our countrymen, in satisfaction at an event which has freed the Government from pecuniary obligation, we call upon you to adjust your revenue to the legitimate wants of the Government. This great national jubilee, which is hailed with joy by the lovers of freedom throughout the world, and which will be cited in after times to the honor of republican Government, brings no relief to us if our exactions are to be continued. Sir, do we ask too much in calling for a reduction of our taxes to the fiscal demands of the Government? The subjects of European despotism would have at least this claim on the humanity of their sovereign. We are willing to contribute our due portion of revenue to support the Government. This we will yield in no niggard or reluctant spirit. Should any portion of our common country, even that portion of which we have most cause of complaint, require our defence, it will be furnished without calculation of cost or consequences. The same spirit which united our fathers and led them to victory, shall animate their sons, and in the common cause we will forget our past differences. But, sir, with these feelings, which I know pervade the whole Southern country, I should be acting uncandidly, did I not state that nothing short of a practical abandonment of the principle of protection can or ought to satisfy the wounded feelings of the South. The repeal of the duties on the unprotected articles which forms the basis of the present bill, will never be considered a fair adjustment of this question. It has been no part of our complaint that revenue duties should be levied on those articles which are not manufactured in this country. Such articles are mostly luxuries consumed by the rich, and are the most legitimate subjects of revenue, because the duties on them are borne equally by all who consume them. Our complaint has been that protecting duties have been levied on those articles which are manufactured in one portion of our country, for the purpose of raising the price of manufacturing labor; and that, while those duties operate as a tax on the South, they operate as a bounty on the North. This is the sum and substance of the whole controversy; and if you take the duties off of wines, silks, teas, spices, and such other luxuries, and throw the whole burden of the revenue on salt, iron, cotton, and woollen goods, and such other necessaries of life as are consumed to the South and manufactured to the North, you not only relieve that section from the whole burden of taxation, but you make the labor of the South tributary to the North.

Sir, we concede much to the manufacturing interest, when we concede the collection of the whole revenue of the Government by a regular ad valorem duty on imports. Under any modification of imposts, the principal burden must always fall on the South, whose productions enter mainly into the foreign trade of the country. By the bill reported from the Committee of Ways and Means, we propose to give you a permanent protection, arising from the revenue

duty of twelve and a half per cent. on all your manufactures, besides the protection you enjoy in the expense of transportation and commissions on the foreign article. Sir, thirty years ago, when your manufactures were in their infancy, six and eight per cent. were considered a sufficient tax on the rest of the community for their support. Twelve and a half per cent. protection at the expense of the South is more than any Southern planter realizes from his capital. It should be recollected, in adjusting this compromise, that we take no account of the millions of dollars which have already been wrung from the impoverished South, to build up the manufacturing industry and prosperity of the North. Strict and rigid justice would require that, in returning to a fair system of revenue, the manufacturers should contribute as much to the South, as they have heretofore exacted from her.

Mr. Chairman, it has been urged that any reduction of duties should be gradual, so as to injure, as little as possible, the interests of those who have vested their capital in manufactures, under the implied faith of the Government to continue its policy of protection. I cheerfully yield to this suggestion, although my constituents have large interests invested in agriculture, under the pledge from this Government that their rights of property should not be violated by appropriating any part of its proceeds to any other purpose than to carry into effect the constitutional powers of the Government. No one has proposed, and I hope no one from the South will propose, a sudden reduction. If gentlemen require it, let them take three, five, or even seven years, provided they will at last come down to the legitimate wants of the Government. Let us, however, see through this long vista of time some prospect of returning liberty and justice; some period in the distant perspective, at which they will restore to us our long-lost rights. The Philadelphia Free Trade Convention, speaking in the name of the South, have assumed the ground that, under a gradual reduction, the system of protection must ultimately be abandoned. While I profess myself willing to vote for any real and *bona fide* reduction, I must be allowed to say that, if the Southern people abandon the position assumed by that convention, they are not only the slaves, but the willing slaves of manufacturing avarice and oppression.

Mr. Chairman, I have attempted to discuss this subject with that freedom which its importance demands. I should not have acted with candor, had I characterized the oppression of which we complain, in terms of more measured indignation. Sir, I have not intended to give offence to any one on this floor by any thing that I have said. How much soever I may differ with gentlemen, my associations here have given me a feeling of personal respect and kindness towards many with whom I shall, probably, always disagree in opinion on this question. Such gentlemen will give me credit when I say that the Southern people value the Union as much as any other portion of our common country: but they value their liberties still more. They will abandon the Union only in the last struggle for their rights; and when it is gone, they will have no cause to upbraid themselves. They have not asked, nor will they ask, any favors, or bounties, or privileges at your hands; they claim but the right to enjoy the proceeds of their honest labor. In their name, I invoke you, by the blood of our common ancestors, by the independence which they struggled to achieve, by the emblems of liberty which surround us, by the stars and stripes of our national banner, suffer us to remain in the Union, not as slaves, but as freemen, paying no other tribute than that which we owe to our common country.

SATURDAY, June 16.

The Register of Debates.

Mr. E. EVERETT, from the Library Committee, offered the following resolution:

Resolved, That the order of this House for a subscription for the first three volumes of Gales and Seaton's Register of Debates, be extended to the volume which has since been published, and to the volumes which may hereafter be published of the aforesaid work.

Mr. FOSTER, of Georgia, moved to amend the resolution by striking out so much of it as referred to the volumes to be published hereafter. He thought the resolution had at first been adopted in rather a hasty and precipitate manner. It appeared, however, that on the faith of it the publishers had gone on to print another volume of debates. He did not wish that they should be losers, and he was willing to go as far as the volume which had been printed. But he was opposed to granting fifty or one hundred thousand dollars a year to anybody.

Mr. EVERETT stated, that when the original resolution had been moved, it had been understood by some members of Congress, and among them a very distinguished member, now in the other House, as amounting to a standing subscription for this work, as it should come out from year to year. There had, however, been some doubt on this subject on the part of the Committee of Accounts, in consequence of which the last volume of the work had not been taken, and remained on the hands of the publishers. Mr. E. observed that the work was, in its nature, continuous. The debates in the House proceeded; and if it was proper that a record of them should be preserved at all, the record ought to continue with the debate. It was important that the people should have an opportunity of knowing what had passed in that House, and that they should have some record of its proceedings to turn to. The amount of the subscription was not large, and as the resolution had been passed almost

unanimously, (many gentlemen had voted in its favor, whom Mr. E. never knew to vote for any other of the kind,) the publishers had made preparation to go further, and had printed another volume of their work. He hoped there would be no objection to adopting the resolution.

Mr. FOSTER was glad that the present resolution had been brought forward. Doubts, it seemed, had been felt respecting the extent and proper construction of the original resolution, and that now offered was intended to remove all doubt on the subject. This was very right. He had not been a member when the first resolution passed, but if the interpretation of gentlemen was correct, he could not but think that a former Congress had gone very far in committing this Government to all ages for the support of a work of this description. The faith of the nation was said to have been pledged, and the House committed for all future time. This was the proper occasion for the House to say whether it so understood the resolution. If the subscription was to be stopped, now was the time to stop it. The gentleman, however, had observed that the resolution had been passed almost unanimously. Yes: no doubt. The House seldom refused to subscribe for any publication, be it what it might, which was intended for the accommodation of its own members. If a work was for somebody else, they would consider, and might possibly have scruples; but if it was for themselves, all scruples were at an end, and a motion to subscribe would pass almost unanimously.

Mr. POLK said that, on learning that there had been some doubt as to the proper construction to be given to the resolution originally passed, he had requested of the Clerk to see the words of that resolution, and on reading them, all doubt vanished. There was no room on which a doubt could rest. [Here Mr. P. read the resolution.] The resolution extended to the debates of two sessions only. It contained no pledge, nor any thing like a pledge. The question was perfectly open, and, unless some other resolution had passed, it was impossible that the publishers could have supposed that the House was in any manner bound. Mr. P. said it was his opinion that the resolution ought not to pass, but that, if it did pass, the amendment ought first to be adopted. He concluded by moving to lay the resolution and amendment upon the table; but withdrew the motion at the request of

Mr. ADAMS, who observed, that with respect to the original resolution he had nothing to say, as he had not then been a member of the House. He was, however, extremely glad that such a resolution did pass. From the language of the resolution, it certainly appeared to him to contain no pledge for any future subscription. But he wished that the present resolution might pass upon its own merits. It was fit and proper that members of the House should have an opportunity to know what had been done heretofore. He believed that there was scarcely a member of the House who had not, on the occasion of the debate which at this time occupies the House, and which so deeply agitates the nation, recurred to this record of the former discussions in Congress on the same subject, particularly those on the tariff of 1828. This work may be considered as the best, if not as the only parliamentary, or rather congressional history of this Union; for, in time of peace at least, the record of the proceedings in the two Houses of Congress is in a great degree the history of the nation. In Great Britain, a recent publication of the parliamentary debates formed a work occupying nearly two hundred volumes, each as large as those of the work now in question. In Great Britain, whose people were sometimes accused here of not feeling the same powerful interest in the concerns of their Government which we did, so much interest was excited by this work, that the publication sustained itself, although documents of a similar kind were now in a course of publication, under the sanction of Parliament, and at the expense of the nation. Of the magnitude, and extent, and expensiveness of this publication, any member of the House might form an idea by visiting our own library, to which he believed, by the liberality of the printer of the compilation itself, a present of a complete set of it had very recently been made.

Surely, if there was any thing in which the example of England, and the example of the British Parliament, should have weight with us, it was this. The publication referred to in the present resolution was one of the same kind with that of the parliamentary debates; but without the aid of this House, it must fail. The publication would continue, if the country was to continue with its present Government, as he trusted in God it would, and then, hereafter, these very volumes would be looked back to by posterity as a record of the acts and opinions of that House. He hoped that any sum of money that might be required to secure such an object would not be looked to as a reason for rejecting it. He hoped gentlemen would rather look to their posterity, and provide the means which should enable them to learn what their forefathers had said and done. The work was important as an aid to the history of the country. Much of the national history must, of course, depend on what passed in that House.

What is the meaning, Mr. Speaker, of that beautiful marble statue over your clock (pointing at the statue) at the entrance of this Hall. Sir, it is the Muse of History in her car, looking down upon the members of this House, and reminding them that, as the hour passes, she is in the attitude of recording whatever they say and do upon this floor: an admonition well worthy of being remembered. The reporters at the sides, in the rear of your chair, are the scribes of that Muse of History; and this pub-

lication, for which the resolution before you proposes a subscription, is the real, I might say the living record of that historic Muse. The publication is well known to be the best and most accurate report existing of the debates in Congress; and so long as it shall be continued, and, especially, so well executed as it has been hitherto, I most earnestly hope that the subscription for the volumes, as they succeed each other, will not be refused.

Mr. SPEIGHT said, that if the question to be settled had been whether the state of knowledge in the country should be improved, and whether the nation should have the means of knowing what passed in that House, he should cheerfully agree to the resolution. But the question was, whether Congress should have the power to tax the people of this country, and appropriate their money to buy books for themselves to read. And he solemnly protested against their having any such power in respect to his constituents for any such purpose. The practice had been carried to a considerable extent during the present session, and the evil began now to be looked upon by the people, as it ought to be looked upon, with horror and disgust. There was not an individual in the House who would go to a greater extent with a view to enlighten the people of this country than he would, but he called upon the House to look at the precedent they were setting. They were appropriating the money of the yeomanry of this land to buy books for themselves to read! and, not content with this, they were binding Congress to do the same thing in all future times. He agreed with the gentleman from Tennessee in the excellent sentiment he had expressed, and he renewed the motion of that gentleman to lay the resolution and amendment upon the table. On which motion he asked the yeas and nays. He withdrew the motion, however, to oblige

Mr. SUTHERLAND, who said he was in favor of these books—[Here Mr. SPEIGHT, speaking across, said, "Buy them"]—and he was in favor of buying them, and, therefore, he was in favor of the resolution. This question had been discussed when Mr. S. had first come into Congress. Mr. Sergeant, of Pennsylvania, was in the House at that time, and strongly advocated the measure. The gentleman from Tennessee (Mr. POLK) opposed, and he (Mr. SUTHERLAND) defended the resolution. The reasons he had given at that time; he thought them sufficient then, and he thought them sufficient now. Inasmuch as some gentlemen would not buy the books and take them home, and show them to their constituents, to inform them of the state of public affairs, some means should be adopted of having them sent. How else would they find their way into the distant parts of the country? Who would buy these books to carry them out into Arkansas? The gentleman from North Carolina, he would venture to say, had not carried them into his part of the country.

[Mr. SPEIGHT made some explanation, which was not heard, but it was believed to be that he did not take the books.]

Mr. S. resumed. If the gentleman had not taken the books, he was a rare exception to a general rule; for he had long observed that, in all these cases, however zealously gentlemen might oppose such a resolution as this, they took the books notwithstanding. Thus they had a double advantage: they got both the books and the credit of refusing them. Mr. S. wished to see them sent abroad, and placed in the libraries of the country. If, on arriving at home, any gentleman's conscience should rebuke him for having taken the books, all he would have to do would be to put them into a public library, and let the people have the benefit of them. This was the very thing Mr. S. desired, and he was the more desirous of it, because, by consulting such a work, they would be able to see both sides of every disputed question. A gentleman from Georgia (Mr. CLAYTON) had lately told the House that he was manufacturing a speech which he intended to publish and distribute at the South, and that he should have certain documents appended thereto. Now, Mr. S. wished that this book should also go to the South, with certain documents appended thereto. He was for sending the argument employed in the present debate, on both sides of the question, all over the Union. Let them go forth side by side, neck and neck, with the tariff-horse a little ahead. The gentleman wanted, very much, to enlighten the nation; let him send this book abroad; let the people of the South hear what those of the North had to say. And, on the other hand, let those in the North hear the arguments and complaints of their Southern brethren. It was a great question, and the people ought to understand it. And it was said that the Union was in danger; he believed no such thing; but he wanted the people to hear both sides of the argument. Gentlemen must have found it very convenient to have books to refer to. If, for instance, they wanted to consult the Richmond Enquirer, to see where the tariff doctrine commenced, they could have an opportunity of doing it. The copy which he had consulted for that purpose, and out of which he had read such interesting extracts, was, however, the only complete file of that paper to be found. It had been preserved by Mr. Jefferson, and but for that the House might have lost the whole of what he had read to them. But had a Register of Debates been at that time published, what a flood of light would it have poured upon the whole subject! Such a record tended to preserve the purity and consistency of legislation. What was it, for example, that kept the judiciary of this country so pure, and in such high esteem? It was the publication of their decisions. The court, then, could not leave the ground it had once taken, without having its previous decisions held up before its face. This rendered the court cautious, and

obliged it to be consistent. The purity of that tribunal depended more upon the publication of its decisions than any thing else. The same principle would operate here, and be followed by the same consequences.

Mr. THOMPSON, of Georgia, renewed the motion to lay the resolution upon the table. On which motion Mr. EVERETT demanded the yeas and nays.

The question was taken, accordingly, by yeas and nays, and stood as follows: Yeas 65, nays 106.

So the House refused to lay the resolution on the table.

Mr. EVERETT had no wish that the House should do any thing which might be considered as binding it to take this work in all future time, and if the amendment proposed by the gentleman from Georgia should, as he trusted it would, be rejected, he should then offer an amendment adding the words, "till otherwise ordered by the House." This would leave the House an opportunity of stopping its subscription at pleasure.

Mr. POLK said that the adoption of such an amendment would have no effect to alter the case, the House might at all times withdraw its subscription; but if gentlemen held that, because the publishers had put themselves to expense in advance of any action of the House, the House was bound to take the book, it was manifest that the publishers could continue the obligation as long as they pleased. The proper course would be that indicated by the gentleman from Georgia, to strike out the last part of the resolution.

Mr. MCDUFFIE said that it was he who had introduced the original resolution for a subscription to this work. He believed the work to be a very valuable one, and he was very sure the publishers would not and could not undertake it without the support of Congress. He hoped, however, that the gentleman from Massachusetts (Mr. EVERETT) would consent to the amendment. He thought it would be better that the publishers should rely on the discretion and liberality of future Congresses, than that the House should enter into an obligation which had no respect to the manner in which the work proposed should be executed. He thought they might with great confidence rely on future Congresses to continue the support of the book, if it should continue to be executed as well as it had been hitherto. A proof of which was to be found in the fact, that the original resolution had been introduced, and adopted by so large a majority, in a period of the very highest political excitement, when parties ran as high as they ever had done since we were a nation.

Mr. ELLSWORTH hoped the amendment would not prevail, with the modification proposed by the gentleman from Massachusetts, (Mr. EVERETT;) the House would have the matter within its control. The object was not that individual members might get these books. The gentleman from North Carolina had not been correct in the view he had taken; the object was that the nation at large might have the benefit. The people never would get these books in any other mode; nor could they be better disseminated than by being placed in every Congressional district in the Union. If the House was satisfied that the work was valuable, (and none denied that it was,) the better mode would be to give the publishers some assurance to go upon. The subject would still be within the control of the House; and should the book be badly executed, they need not take it.

Mr. IRVIN said he had no objection to vote for the subscription, but he must object to pledging the House to take whatever the compilers of this book might choose to put into type. He should prefer to let a committee examine the book, and pass on its merits. He therefore moved to strike out the latter clause.

[Mr. I. had not heard the motion of Mr. FOSTER.]

Mr. SPEIGHT further insisted on his opposition to the resolution. If there was a proposition to grant to each member of the House a bonus of $1,000, would any gentleman be found to vote for it? This was a motion to appropriate money to buy a book for their own use; where was the difference? He contended for principle; but to contend for principle in these times, seemed like rowing against wind and tide. He was glad to perceive, however, that nothing like a spirit of party actuated gentlemen on this occasion. As to carrying the book to spread information in their districts, it might do very well for the gentleman from Philadelphia (Mr. SUTHERLAND) to talk of that; but how would it apply in his district, and that of his colleague over the way, (Mr. CARSON,) whose districts were of much larger extent? Placing the book in their libraries would convey no information to the people. He insisted that the House had no constitutional right to pass any such resolution; but, if they were determined to proceed, let them do so.

Mr. CRAIG proposed to limit the subscription to the fourth and fifth volumes of the work. This would be going far enough into the future, and would obviate the objection of the gentleman from Georgia, (Mr. FOSTER,) which was not without force. As to the parallel stated by the gentleman from North Carolina, it did not apply. It would be mean and base, indeed, to vote a bonus of money into their pockets; but it was wholly another matter to vote money for the means of transmitting our national history to posterity. Did the gentleman suppose it was the object of those who voted for the resolution to enlarge their fortune by the important sum of five dollars? He trusted they all had higher motives.

Mr. DANIEL coincided in opinion with the gentleman who had just spoken; but he never could vote for a resolution of this kind. The gentleman's argument was very good; but he thought the dissemination of the laws was of

more importance than disseminating gentlemen's speeches. However, as the gentleman from Virginia spoke very often, he supposed he would like to see his own speeches put upon record; but when a proposition was brought forward to place a copy of the laws in every clerk's office in the country, the gentleman was opposed to it. He would vote a book for his own library, but when a book was to be sent to his constituents, that he was opposed to. He treated the argument of the gentleman from North Carolina about money, with contempt.

[Mr. CRAIG here interposed. It was not true that he had treated the gentleman from North Carolina with contempt; he had no such thought. Mr. SPEIGHT said it was no matter; he should take care of that.]

Mr. D. resumed. He had not said the gentleman treated any one with contempt. As to treating the gentleman from North Carolina with contempt, it was impossible; the two gentlemen were too good friends for that; and besides, they seemed to have taken the House jointly into their care. None, surely, would venture to treat either of them with contempt; it was out of the question. As to the honorable gentleman from North Carolina, he had told the House that he did not carry these books home.

[Mr. SPEIGHT said he had not.]

So we are to suppose that he did not take his books.

[Mr. SPEIGHT said he had not taken them into his district; they were in this city.]

Oho! This is news, indeed. So the gentleman was not against taking the books, but only against carrying them to his constituents. A very extraordinary distinction, indeed; much like the difference between "Come out here, McCarty," and "McCarty, come out here." Mr. D. said he liked to see consistency. He did not charge the gentleman from North Carolina with inconsistency in his votes, for he had always voted against every proposition of this kind; the gentleman was for keeping out every thing that was to enlighten his constituents. The gentleman's district was so large that he thought information could not get to them. Mr. D. had been uniformly against voting books for themselves; but when information was to be provided for the people, that he was in favor of. If the proposition was to put this Register of Debates in every clerk's office in the country, he would vote for it; on the same principle, he would place there a copy of the laws. It was as necessary for the people to know the votes of gentlemen, as to know their speeches. But it often happened that the votes of gentlemen did not tally with their speeches. Thus the worthy gentleman from Virginia (Mr. CRAIG) made a speech in favor of giving all information to the people; yet, when a proposition was made to furnish them with the laws, he voted against it. The gentleman's speech looked one way, and his vote another. Mr. D. concluded by saying he was now ready to hear what the gentleman from North Carolina had to say.

Mr. SPEIGHT said he had nothing to say. The gentleman had acknowledged that his course had been consistent. He had not voted for printing a new edition of the laws, because he was of opinion that the country had already a sufficient supply. He believed all the House understood the meaning of what he had said. As to contempt, he had meant none; but if the gentleman from Virginia thought that any thing of that nature applied to him, he was at liberty to take it.

Mr. EVERETT said he wished to amend the amendment, so as to meet the suggestion thrown out by the gentleman from Virginia, so as to extend the subscription of the House only to the next volume of the Debates. Perhaps the gentleman from Georgia would accept it as a modification.

Mr. FOSTER said he could not do so. No construction of the constitution would authorize such an application of the public money. A gentleman had said that the publishers had gone to the North to get type for printing this work, and therefore the House was bound to take it. He could not subscribe to such doctrine. If this work was so very important, let the Clerk of the House advertise for proposals to publish it. Mr. F. referred to a former period, when the House had been so scrupulous with respect to this class of expenditures, that it had inserted in the appropriation bill a proviso, restraining the application of the contingent fund; but now it seemed they had forgotten all their scruples. One work after another was to be subscribed for, and the money was all to come out of the contingent fund. They had ordered work after work for their own personal use. He was against the whole proceeding.

Mr. DEARBORN said it began to be considered so important to disseminate information through the country, that gentlemen opposed to this practice complained the practice was increasing daily. Mr. D. considered this as a favorable omen. What had the American Congress yet done for science and the arts? Where were the libraries or great public institutions it had endowed or established? Had we not still to depend on foreign literature? What subject could be discussed, but we had to go to foreign libraries for what we needed? There were more books in a single library in Paris, than could be collected in the whole United States; yet gentlemen objected to subscribing for this one valuable book—a book immediately connected with their own proceedings and the history of the country. Mr. D. was, however, confirmed in the belief that the work would be encouraged, and that the House would take measures to transmit to posterity some correct knowledge, not only of its acts, but of the grounds of them; so that their children and descendants might examine them, and, where they had erred, might correct the error.

The question was put on Mr. FOSTER'S amendment, and decided by—yeas 106, nays 68. So the amendment was agreed to.

Mr. EVERETT moved to amend the resolution, by adding the words, "and to the next succeeding volume;" which was agreed to.

Mr. DANIEL denied that there was a complete copy of the laws of the United States to be found in any clerk's office in Louisiana or Alabama, and scarcely one in any other part of the Union. He would venture to say that even in Virginia, and the gentleman's own district, no such thing could be produced. Taking the gentleman, therefore, upon his own principles, he was perfectly inconsistent.

The question was put on agreeing to the resolution as amended, and carried in the affirmative.

The House adjourned.

TUESDAY, June 19.

Death of Mr. Johnston of Virginia.

Mr. BOULDIN, of Virginia, rose, and said that it was his melancholy task to announce to the House the death of one of its members, Mr. CHARLES C. JOHNSTON, his colleague, who departed this life (as it was said) on Sunday last. In communicating this fact to the House, none who had known the deceased, and had been acquainted with the terms on which Mr. B. stood with him, need to be told how deeply the loss was deplored by him. He had known Mr. J. when he was a youth, and had witnessed the promise of all those things to come on which a parent's heart dwelt with such fond hope and anticipation. Mr. J.'s after-life had filled the picture which seemed then to be portrayed in the bud and in promise. Could Mr. B. present to the House that image which each member of that little band among whom he dwelt had cherished of him in his bosom, the exhibition would show a union of all the social virtues in their most eminent degree. Of that little band Mr. J. had been the idol, and he had deserved to be so. He promised talents and virtues fitting him to do much good to that country which no man in it loved more purely or more warmly than he loved it. He was just coming forth to comply with all the promise which his parents (now no more) had indulged respecting him, when he was thus suddenly cut off. He had left 2 children, who had now no parent; but no man who had known the father they had lost, could or would do aught but kindness to the children he had left behind him. Mr. B. said he came to tell the tale of sorrow; a deplorable tale, most deeply deplored by him. Mr. J. had been to him a friend "meet for him" in all particulars. He had been so to all the little mess with whom he associated—of whom there was not one but felt as he did, and as he believed that every one must feel who knew any thing of the friend whom they had lost. Mr. B. then offered resolutions—

For attending the funeral at 4 o'clock in the afternoon;

For wearing crape on the left arm during the residue of the session;

For a committee to superintend the funeral; and

For a message announcing the event to the Senate.

The House then adjourned.

WEDNESDAY, June 20.

Asiatic Cholera.

Mr. HOWARD stated that, in consequence of the information which had been made public of the existence of a contagious disease in the British territory bordering on the United States, he was instructed by the Committee on Commerce to report a joint resolution, for taking steps to check the progress of the disease, and which he meant to ask the House, from its importance generally to the public, to have now passed through all its stages. The resolution which he submitted was as follows:

"*Resolved by the Senate and House of Representatives, &c.* That the sum of $50,000 be, and the same is hereby, appropriated, out of any money not otherwise appropriated, and placed at the discretion of the President of the United States, to be expended under his authority in endeavoring to preserve the people of this country from the prevalence of the disease known by the name of Asiatic Cholera, now raging in Canada."

Mr. HOWARD moved that the rule should be suspended in order to take up the joint resolution, and that it then might have its second reading.

The motion to suspend the rule was rejected—yeas 59, nays 62. (It required two-thirds.)

THURSDAY, June 21.

The Cholera.

The joint resolution moved yesterday by Mr. HOWARD, to appropriate fifty thousand dollars to prevent the advance of the cholera into the United States, was taken up. The question being on its second reading,

Mr. HOWARD addressed the committee at length in support of it, waiving the constitutional question, and insisting that the people on the frontiers, in whose exertions to prevent the introduction of this pestilence the whole country was interested, ought not to be left to support unaided the expense they must necessarily incur in carrying their arrangements into effect.

Mr. HALL, of North Carolina, considered the resolution unconstitutional, and opposed it as unnecessary, since the municipal laws and quarantine regulations of the States were fully ad equate, without any legislation of Congress.

Mr. IRVIN insisted that the resolution was within the constitution, and remonstrated with

warmth against laying the whole burden of preventive measures on those who inhabited the frontier.

Mr. POLK opposed the resolution as useless as well as unconstitutional. The President must necessarily act on local information, and the whole subject ought to be left to local and State legislation. He moved to lay the resolution on the table; on which motion

Mr. IRVIN demanded the yeas and nays; but, before they were taken, the House, on motion of Mr. MASON, passed to the order of the day, which was the bill to liquidate certain Virginia claims.

WEDNESDAY, June 27.

The Tariff.

The question recurring on the following amendments proposed by Mr. ADAMS, viz: To increase the duty in the bill on mits, gloves, bindings, blankets, hosiery, and carpets and carpeting, from twenty-five to thirty-five per cent. ad valorem. To increase the duty on Brussels carpeting from fifty cents the square yard to sixty-three: to reduce the duty on ingrain carpeting from forty-five by striking out the word "five," to forty, and to include in the same provision with the ingrain the Venetian carpeting, which was rated at twenty-two and a half cents the square yard,

Mr. ADAMS said that his object in proposing these amendments was to make the bill consistent with itself, and thereby to give to the manufacturer of woollens a corresponding protection to that which was already secured by the House to the grower of the raw material. He deemed these amendments of extreme importance; and if they were, as he trusted they would be, adopted, from what had passed in debate on the bill for the last three days, he was induced to have great hopes that the bill would be in such a shape that the majority would be found in the House who would be decidedly in favor of sending it perfected to the Senate. He had great hopes that this would be the case, because it appeared, by various decisions within these three days passed, that there were in the House at least one hundred members who proved by their conduct and by their votes that they were sincerely and earnestly desirous for the passage of the bill—a bill which, when passed, would in its operation relieve the people of this country from full six to eight, or possibly ten millions of dollars annually levied on them for taxes. It was a matter of great satisfaction to him to have to observe that whilst there was such a number so disposed to act, they were equally determined that the remission of this taxation should be done without impairing the great principle for which he had contended, of protection to the industry of this country. He felt no doubt, therefore, while that number were true to their principles, that they would be able to send the bill, and very shortly too, to the Senate; and though it might not be the best possible that could be framed, for he did not think it was the best, but rather thought it might be made much more beneficial, yet, if the amendments he had proposed should be adopted, he was prepared to state then that he, for one, would vote for it.

Mr. SPEIGHT said he had not, hitherto, taken any part in the discussion on the general subject involved in this bill; nor did he wish to take up the time of the House now in doing so, rather wishing to have it brought to as speedy a termination as possible. He could not, however, refrain from observing that he looked on the amendments now presented to the House by the honorable gentleman from Massachusetts as testing the great principle maintained throughout the entire bill, and to which, apart from his objections to it on the score of its unconstitutionality, he was decidedly opposed—he meant its unequal operation upon the poor and upon the rich. Every candid man would acknowledge that it grinds down the laboring classes, and to those persons in the humbler walks of life gives no relief whatever. Would not, he asked, its effects be most felt by them? He instanced the provision made as to the duty on blankets, which, more than most others, would bear hard, particularly hard on those of his constituents who earned their bread by the sweat of their brow. Mr. S. argued forcibly and at considerable length against the protective system generally, and its ruinous effects on the South, and said it could not have been sanctioned by the House but for a combination, which was made by its supporters, who, to effect their object, did not scruple to hold out lures that they would include in the operation of their system many articles in which the States happened to have direct interests. Louisiana had her protection on sugar; Pennsylvania her protection on iron; the northern and maritime districts of the country had the boon given by the tenth section to shipping; and thus, and thus only, were they able to uphold it; and this all at the expense of the South—at the expense particularly of the agricultural interest, whom they would not deign to receive into their protection, for they had refused to give to that class a small relief when his colleague (Mr. CARSON) had proposed an amendment, which went to give them only a very small share, and to which they were as much and as justly entitled as any other class in the community.

Mr. CAMBRELENG moved to reconsider the vote of yesterday, concerning the allowance to navigation. He had ascertained that, if that provision remained in the bill, it would lose more than thirty votes, upon constitutional grounds, no matter what form the bill should ultimately assume. He was willing to assume any responsibility but that of defeating a measure so important to the harmony of the Union. He felt it to be his imperative duty to respect the constitutional objections of those who were anxious to vote for the measure.

Mr. EVANS inquired if such a motion could be in order, there having been already a reconsideration on the same vote.

The SPEAKER replied in the affirmative, and the question of reconsideration was put, and carried —yeas 97, nays 91.

Mr. WHITE moved an amendment, in substance, to strike out of the tenth section the provisions made therein for drawbacks, and insert, in lieu thereof, that there be paid an amount equal to three-fourths of the duty paid on all the imported hemp, sail duck, iron, and copper, used in the construction and fitting out of ships owned by American citizens, and subject to such further regulations as should be prescribed by the Secretary of the Treasury.

EVENING SESSION.

The question being on striking out the tenth section of the bill, Mr. Clay demanded the yeas and nays thereon; which being taken, stood—yeas 99, nays 97. So the tenth section was stricken out.

Mr. VERPLANCK said that as the House had just stricken out the part of the bill which held out a protection to the navigating interest, he considered it his duty, as some compensation, to propose an amendment reinstating the duty on sail duck as it had stood under the act of '24. He therefore moved to strike out after the word "sail duck" the words "ten cents the square yard," and insert "fifteen per cent. ad valorem."

Mr. WICKLIFFE said a few words in opposition to this amendment, and demanded the yeas and nays; which stood—yeas 98, nays 94.

So the amendment of Mr. VERPLANCK was agreed to.

Mr. BOON demanded the previous question, but the motion was not seconded.

Mr. ADAMS repeated the motion which he had made last evening, a decision on which had been superseded by the course since pursued, (of which he complained;) it was to amend the bill in that part of it which relates to woollens, and which then read as follows: "On mits, gloves, binding, blankets, hosiery, and carpets and carpeting, twenty-five per cent., except Brussels carpeting, which shall be at fifty cents the square yard, ingrained carpeting at forty-five cents the square yard, and Venetian carpeting at twenty-two and a half cents the square yard; and except blankets, the value whereof at the place from whence exported shall not exceed seventy-five cents, the duty to be levied upon which shall be five per cent. ad valorem; on flannels, baizes, coach laces, thirty-five per cent.; and upon all other manufactures of wool, or of which wool is a component part, and on ready-made clothing, fifty per cent."

So as to read, "On mits, &c., except Brussels carpeting, which shall be at sixty-three cents the square yard; ingrained and Venetian carpeting at forty cents the square yard; and except blankets, &c.; on flannels and baizes, sixty cents the square yard; on coach laces, thirty-five per cent.; and upon all other manufactures of wool, or of which wool is a component part, and on ready-made clothing, thirty-five per cent."

The question having been divided, it was first put on striking out fifty cents, and inserting sixty-three cents the square yard on Brussels carpeting.

Mr. ADAMS observed that this was a part of the same system of equalizing duties which had been pursued in constructing the whole bill. The duties on woollen yarn having been raised, it was just that the duties on this species of manufacture which was made from that yarn should also be increased.

Mr. ELLSWORTH also advocated the amendment, and referred to the state of this branch of manufacture as it existed in two establishments within his own district.

Mr. CAMBRELENG said that the bill had reduced the duty on raw wool, such as was used in carpeting, to almost nothing; and it was fair that the duty on the fabric should be reduced proportionably. The duty, as it now stood in the bill, was almost prohibitory; the aggregate protection amounted to about one hundred and twenty per cent.; and yet the manufacturers were not satisfied, and the gentleman from Massachusetts now wished to raise it still higher.

Mr. WATMOUGH observed, in reply, that in the making of Brussels carpeting none of the coarse wool to which the gentleman's remarks applied, was used; none but the finest wool entered into the fabric.

Mr. MCDUFFIE did not wish the House to act without further light; and desired to be informed from some practical source what was the cost of Brussels, ingrain, and Venetian carpeting, that the House might know what duty ad valorem they were asked to impose.

Mr. INGERSOLL replied that the cost, in France, of Brussels carpeting was one hundred and twenty-six cents the square yard; and of ingrain and Venetian carpeting, sixty-five cents.

Mr. MCDUFFIE said he had a letter from a gentleman in Boston, which stated that the cost abroad of ingrain was from forty-six to fifty-nine cents, but of the commonest sort it was forty cents. At this rate, the duty would be on the coarser kinds ninety-four per cent., on the finer seventy per cent. He took it for granted the Venetian carpeting was of a coarser description than ingrain.

Mr. ADAMS said the gentleman was talking about ingrain carpeting, while the amendment had to do with Brussels. As to ingrain, his amendment proposed to reduce, not to increase, the duty. Brussels carpeting at Baltimore was at one dollar and sixty-two cents the square yard, and it was quoted as an extraordinary degree of cheapness, that it had, in one case, sold at one dollar and twenty-seven cents.

Mr. CAMBRELENG said at that rate the duty would be fifty per cent. ad valorem.

Mr. WATMOUGH said the duty, instead of

being ninety-four per cent. as had been supposed by the gentleman from South Carolina, (Mr. MCDUFFIE,) was but fifty-nine per cent.

Mr. MCDUFFIE repeated the information he had received from Boston. It came from Mr. Benjamin Winslow, a gentleman of high mercantile standing.

Mr. ADAMS said the question was on Brussels carpeting, and demanded the yeas and nays.

Mr. HOFFMAN said there were three qualities of Brussels carpeting, one of which cost one dollar and twenty-eight cents, another one dollar, and a third sort cost only eighty-nine cents. The duties on carpetings were badly arranged; the heaviest tax fell on that used by the poorer people, and the lightest on that consumed by the wealthy.

The question being taken, the amendment was decided in the affirmative—yeas 98, nays 92.

The question was next on the second item of the amendment, viz: to make the duty on Venetian and ingrain carpeting alike, fixing both at forty cents the square yard.

Mr. CAMBRELENG opposed the amendment, which went to raise the proposed duty on Venetian carpeting from twenty-two cents to forty cents. The gentleman had said, that the amendment proposed to reduce the duty on ingrain, is true; but at forty cents the duty would not be reduced below the tariff of '28, although the duty on the coarse wool was almost taken off. The gentleman, he presumed, would not say in this case, as he had about the Brussels carpeting, that no coarse wool was used in the manufacture.

Mr. ADAMS replied that he should say so. No coarse wool was employed: none of that from which the duty had been removed.

Mr. CAMBRELENG inquired what was the price of the wool used in this sort of carpeting.

Mr. ADAMS said he could not say precisely; but he took it for granted, from the information he had received, that none of the sort below eight cents a pound was employed.

Mr. CAMBRELENG should take nothing for granted on that floor; he called for proof.

Mr. ADAMS said he had letters to show that none of the free wool was used, and he would endeavor to lay his hand upon them.

Mr. ELLSWORTH inquired at what rate the Secretary of the Treasury had put these carpetings.

Mr. CAMBRELENG said at twenty-five per cent. ad valorem.

Mr. CARSON thereupon moved to amend the amendment, so as to fix the duty at twenty-five per cent. ad valorem.

Mr. WHITE, of New York, called for a division of the question, so that it should first be taken on inserting the words "and Venetian."

Mr. WICKLIFFE should like to know from gentlemen who were familiar with the subject, to what use the coarse wool was put. He recollected that in 1828 much was said in favor of admitting it, because it was used in the manufacture of carpeting.

Mr. SUTHERLAND said he had recently received a letter from a manufacturer of this article in Philadelphia, stating that the manufacture would be broken up should the duty be reduced. He asked, on what article could duties be laid with more propriety than on carpeting? It was an article almost exclusively used by the wealthier part of the community, chiefly those who resided in cities: in the country, but little of it, comparatively, was ever used.

Mr. DAVIS said there was no such thing as "free wool" under this bill. A duty was laid on the very coarsest kind: it was used in making the ordinary kind of carpets.

Mr. ADAMS now read the letter he had referred to; and the amendment was rejected—yeas 94, nays 96.

Mr. A. withdrew the residue of his amendment as to carpets.

The question recurring on the last clause of the amendment which proposed a duty of sixteen cents the square yard on flannels and baizes,

Mr. CRAIG moved the previous question, and the question being put on seconding the call, it was decided in the negative—yeas 93, nays 95.

Mr. APPLETON advocated the amendment. He said that two and a half millions of dollars were invested in this branch of manufacture. The protecting duty, by the act of '24, had been thirty-three and a third per cent. ad valorem. At that time but little capital was employed. By the act of 1828, a duty of twenty-two and a half cents a square yard had been laid on flannels under the lowest minimum, which was a higher protection than on any other species of woollen goods. The consequence had been to draw a large amount of capital into that branch of business: insomuch that the flannels made by those engaged had filled the entire American market within four years after. A larger amount of wool was used by this manufacture than by any other. The duty laid by the bill upon wool amounted to forty-eight per cent.: the present amendment would place thirty-five per cent. upon flannels. The Committee on Manufactures, when they reported the duty at present in the bill, had not been aware of the true facts of the case which had since come to their knowledge.

Mr. BATES, of Maine, inquired whether it would be in order to amend the amendment of Mr. ADAMS, by striking out the entire clause about flannels and baizes from the bill, so as to leave the existing law unaltered.

The CHAIR replied in the negative.

Mr. WHITE, of New York, moved the previous question, and the call having been seconded, the previous question was put, and carried; and the main question was accordingly put, viz: "Shall the bill be engrossed, and read a third time?" and decided as follows:

YEAS.—Messrs. Adams, Chilton Allen, Anderson, Appleton, Armstrong, Arnold, Babcock, Noyes Bar-

ber, Barringer, Barstow, James Bates, Beardsley, Bell, Bergen, Bethune, John Blair, Bouck, John C. Brodhead, Bucher, Burd, Cambreleng, Carr, Chandler, Chinn, Claiborne, Clay, Collier, Conner, Eleutheros Cooke, Bates Cooke, Corwin, Coulter, Craig, Crane, Dayan, Dearborn, Doddridge, Doubleday, Ellsworth, G. Evans, J. Evans, Findlay, Fitzgerald, Ford, Gaither, Gillmore, Thomas H. Hall, William Hall, Hammons, Harper, Hawkins, Heister, Hoffman, Hogan, Horn, Howard, Hubbard, Huntington, Ingersoll, Irvin, Isacks, Jenifer, Jewett, R. M. Johnson, Cave Johnson, Kavanagh, Kennon, Adam King, John King, Kerr, Lansing, Leavitt, Lecompte, Lent, Letcher, Lyon, Mann, Mardis, Mason, Marshall, Maxwell, McCarty, McIntire, Mercer, T. R. Mitchell, Muhlenberg, Patton, Pierson, Plummer, Polk, Randolph, John Reed, Edward C. Reed, Roane, Root, Russel, William B. Shepard, Augustine H. Shepperd, Smith, Southard, Speight, Spence, Standifer, Stephens, Storrs, Taylor, Francis Thomas, Philemon Thomas, Tompkins, Tracy, Verplanck, Ward, Wardwell, Washington, Wayne, Weeks, E. Whittlesey, F. Whittlesey, Campbell P. White, Williams, Worthington, Young—122.

NAYS.—Messrs. Alexander, R. Allen, H. Allen, Banks, J. S. Barbour, Barnwell, I. C. Bates, Bouldin, Branch, Briggs, Bullard, Burges, Carson, Choate, Clayton, Coke, Lewis Condict, Cooper, Crawford, Creighton, Daniel, Davenport, John Davis, Warren R. Davis, Denny, Edward Everett, Horace Everett, Felder, Foster, Gordon, Grennell, Griffin, Hawes, Hodges, Hughes, Ihrie, Jarvis, Kendall, H. King, Lamar, Lewis, Robert McCoy, McDuffie, McKay, McKennan, Milligan, Newnan, Nuckolls, Pearce, Pendleton, Pitcher, Potts, Rencher, Slade, Stewart, Sutherland, Wiley Thompson, J. Thomson, Vance, Watmough, Wilkin, Wheeler, Edward D. White, Wickliffe, Wilde—65.

So the bill was ordered to be engrossed, and read a third time to-morrow.

FRIDAY, June 29.

Death of Mr. Mitchell.

Mr. HOWARD, of Maryland, rose, and thus addressed the House: Mr. Speaker, it has devolved upon me to communicate to the House the decease of GEORGE E. MITCHELL, one of the representatives for the State of Maryland. The infirm state of health in which he had been for a long time past, must have been apparent to every one, until at length the struggles between a naturally robust constitution, and an inveterate disease, are over, have terminated in his decease, and he now sleeps with his fathers. It is but a short time since we were called on to pay the last melancholy tribute of respect, and to follow to the tomb the remains of one of our body, who was suddenly cut off in the meridian of his usefulness, and now we find our ranks again broken. These events force one reflection on my mind, which I crave leave to express. Whilst, in the performance of our duties, we are prescribing laws for others, we find ourselves the subjects of a system of other laws, which we had no share in enacting. Sir, there is no republic in the government of the Universe; and yet how absolute is the necessity, how absolute the obligation of obedience to the Deity, who, in his wisdom, has framed that code. I will not attempt now, or here, to portray the life or character of the deceased, The spontaneous offer, on the part of the military authorities of the city, to join in such testimonial of respect as the House may order. sufficiently demonstrates that the name of MITCHELL is inscribed on the rolls of fame. Whilst in the service of his country, during the recent war, his brilliant defence of the fort of Oswego, with which he was intrusted, won the applause due to successful valor: returning from his military career, and embarking in all the turmoils of political life, he brought into this House a frankness of deportment, unobtrusive efficiency, and such steady judgment, that I may with perfect safety assert that he won the friendship of those who knew him well, and obtained respect from all. Let us withdraw awhile from the cares which surround us here, and unite in paying the last tribute of respect to his memory. In order that we may do so, I submit to you the following resolutions:

Resolved, That the members of this House will attend the funeral of the late GEORGE E. MITCHELL, at five o'clock P. M.

That a committee be appointed to take order for superintending the funeral of GEORGE E. MITCHELL, deceased, late a member of this House from the State of Maryland.

That the members of this House will testify their respect for his memory by wearing crape, &c.

It was then ordered that a message be sent to the Senate to notify to them the death of Mr. M., and the hour that his funeral would take place.

Mr. HOWARD, Mr. THOMPSON, of Georgia, Mr. BLAIR, of South Carolina, Mr. ALEXANDER, Mr. CARSON, Mr. DEARBORN, and Mr. WARD, were named as the committee. After which,

The House adjourned.

SATURDAY, June 30.

Day of Fasting and Prayer.

A joint resolution from the Senate, proposing that a committee of both Houses wait on the President of the United States, and request him to recommend a day for the observance of a general fast in reference to a deliverance from the impending judgment of a prevalence of the Asiatic cholera, coming up for consideration,

Mr. ARCHER moved to lay the resolution upon the table. He presumed there was no gentleman in that House who could believe that either the General or the State Governments had, as such, any thing to do with the subject of religion at all. The very nature of those Governments was sufficient to point this out, and the language of the constitution showed that such was the will of this nation.

On this motion Mr. WHITTLESEY demanded the yeas and nays.

Being taken, they stood—yeas 68, nays 104.

So the House refused to lay the resolution upon the table.

The question being on ordering it to a third reading,

Mr. ADAMS moved to amend the resolution by striking out the word "Asiatic," and inserting in lieu thereof the word "pestilential." He considered the custom of giving denomination to diseases from the countries whence they came, or where they were supposed to prevail, as very objectionable. This disease was confined to no part of the world. It had prevailed, indeed, in Asia, but it had likewise been but too prevalent over all Europe, and it threatened to become so in our own country. He repeated that there was something offensive in naming it as belonging to any one particular country. Had this terrible disorder originated in our own country, and should the people of Europe, when it came to them, denominate it the "American scourge," he presumed that all Americans would feel a strong objection to such a title. It was one of the most dreadful calamities that it had ever pleased Divine Providence to inflict upon the human race. There was not, he believed, in all the records of history, a parallel to it to be found anywhere.

Mr. BURGES thought that this disease ought to be designated by the name it had already received. It had been called in Europe the Asiatic cholera, and he saw no reason why that name should be changed. There was something in the character of such calamity, which caused men to forget all origin. Nor did the term which had been objected to, involve in it any thing of reproach or reflections, or any thing like arrogating a superiority over others. It had been denominated Asiatic cholera chiefly with a view to distinguish it from a disease of a similar kind, but which was not epidemic—the ordinary cholera morbus, which had always been prevalent, more or less, during the hot season in this country. Whether the imported disease was "pestilential" or not, was a matter of controversy. Many denied it to be contagious at all, though should that House, by its acts, pronounce it to be a pestilential disease, it might perhaps go far to settle the question.

Mr. BATES, of Maine, agreed with Mr. ADAMS in the sentiment that it was improper to designate this terrible disease by the name of any country, and should consider it more appropriate to give it a name that should refer to the symptoms of the disorder itself. The term Asiatic did nothing towards characterizing the disease. He should prefer having it denominated "spasmodic."

The question being taken on Mr. ADAMS's amendment, it was rejected.

Mr. DAVIS, of South Carolina, was opposed to the resolution itself. He thought the act which it proposed was one peculiarly pertaining to the various christian churches in our land, and did not belong to the Government at all. He was not aware that any such course had been pursued heretofore. The custom had obviously been derived from our English ancestors. It had long prevailed in England, and there it was proper enough, on the theory of their Government, in which the King was recognized as the head of the hierarchy. But nobody surely would attempt to assimilate the Government of our country, in this respect, to that of Great Britain. The President of the United States was not the head of the church. In some of the States this fast had been recommended by ecclesiastical authority. He understood that in Virginia the head of the Episcopal Church had acted on the subject.

This was very proper, and he presumed the example would be followed in other States. But the Government, as such, had nothing to do with the matter. There was another objection to the measure. It tended to increase alarm, and to give a solemn sanction to the fears of the people. This, instead of averting the calamity, would rather have an opposite tendency, inasmuch as it was generally held that a previous state of alarm constituted a great part of the danger.

Mr. DEARBORN said that the gentleman from South Carolina had been incorrect in supposing that no such course had been heretofore pursued. During the last war, fasts had been repeatedly recommended by Congress, and days of thanksgiving had also been recommended by Washington and Adams.

Mr. CRAIG denied that the resolution should be objected to on any constitutional ground. It contained nothing obligatory. It did not pretend to bind anybody. Should the resolution pass, the President was free either to do it or not to do it, as he thought fit. And if he proclaimed a day, the people were free to observe it or not, as they should think fit. It was entirely an extra official act, based upon no claim to authority, but founded on an expression of the moral sense of the people.

Mr. CARSON thought that this matter might be arrested very suddenly by simply reading a letter from the President. For himself, he should make no professions of any love for prayer and fasting, and all that sort of thing. He thought the measure improper, and likely to end in no good purpose. The letter was not very long, and he considered it a very good letter. He requested that the letter might be read at the Clerk's table.

[Cries of No! No!—Object!—We have all read it.]

Mr. C. then said he should take the liberty of reading it himself. He then read in his place the reply of President Jackson to an application of the Synod of the Reformed Dutch Church, on the subject of a fast.

Mr. KERR, strongly objecting to this debate, moved the previous question.

The motion was seconded, the previous question put and carried, and the yeas and nays

ordered on the main question, which was the third reading of the resolution, and was carried by—yeas 99, nays 62.

MONDAY, July 2.

Bank of the United States—Recharter.

The House resumed the consideration of the bill to recharter the United States Bank.

The question recurring on the amendment proposed by Mr. WARDWELL, of New York, to give to the several States the power of taxing the capital employed therein,

Mr. W. explained, and advocated his amendment at considerable length. He had presented a number of petitions from his district for the recharter of the bank, but in every one of them it was made a condition that the new charter should contain a clause empowering the States to tax bank capital within their respective limits; and he believed that, could the question be submitted to the whole people of the United States, whether the States should have such a power, nine out of ten would answer in the affirmative. Why no such clause had been inserted in the existing charter, he was unable to divine. As to running a parallel between this case and that of the General Post Office and its branches, if there was any force in the argument, let it be carried fully out; let fees and salaries be given by the Government to all the subordinate officers of the establishment, and then the people would be better able to see and judge whether there was a necessity for such an establishment. He believed that if the powers of the bank should not be curtailed at the present session, it would be out of the power of any future Congress to resist the overwhelming influence of so gigantic an institution, nor could a President of the United States ever be hereafter elected but with its approbation. He admitted the propriety of establishing branches of the bank at points where it was necessary for the collection and safety of the public revenues; but insisted that if they should be placed where no such necessity existed, and where they came in competition with State banks of far weaker power, it was no more than fair that they should be subject to the same taxation with such banks. Nothing could be more unjust, nothing could effect greater inequality than the exemption of all this capital from taxation. He concluded by demanding the yeas and nays; which were ordered.

Mr. ROOT inquired of the Chair whether a proviso could be offered as an amendment to an amendment. It was itself a substantive proposition, and was not connected with the subject of the branches of the bank, to which subject the section and previous amendment referred.

The CHAIR replied, the amendment of the gentleman from New York to the amendment is perfectly in order. An amendment may be made so as totally to alter the nature of the original proposition. If the amendment proposed is inconsistent with one agreed to, or the original proposition, it is a ground for its rejection by the House, but not within the competence of the Chair to suppress as against order.

Questions of consistence are for the decision of the House and not the Chair, and the proposition for amendment is therefore in order.

Mr. ELLSWORTH observed that under the existing charter the property of individuals in the Bank of the United States could be taxed, just as their property in any other corporation might be. There was, therefore, not a stockholder in the United States but could be reached under the existing law. As to the stock owned by the United States, that, it was manifest, ought not to be taxed. There remained then only the stock owned by foreigners, that could not be reached by taxation. Mr. E. said he was willing to vote for an amendment should any be deemed necessary, to supply that deficiency, but it was at most only a small matter. Foreign stockholders within the States were not generally taxed. He hoped the amendment would not prevail.

Mr. MCDUFFIE thought that the gentleman had not well considered what would be the effect of his amendment. He had said that there was no proposition that people would assent to more readily than that the stock of the United States Bank ought to be taxed. In a general sense, this might be true. But the moment the attempt was made, gentlemen would find the subject involved in inextricable difficulties. The gentleman had talked about the inequality of taxation. But he would find that no proposition could be devised which would in practice involve grosser and more revolting inequality than his own amendment. It gave to Pennsylvania, where one-sixth of all the stock of the bank was held, power to tax all the stockholders in the United States. Those States where the largest amount of the bank capital was held, received the greatest amount of benefit from the bank. And yet these would be the States which, under the operation of the proposed amendment, would tax the bank the most heavily. The bonus was the only equal tax which could be levied, and the bonus required by this bill was very large. The bonus under the existing charter was a million and a half for twenty years' privilege, while that in the present bill amounted to three millions for fifteen years' privilege.

Mr. WAYNE said, in reply, that the monstrous inequality of which the gentleman spoke, arose only from the monstrous nature of this bill. Should he succeed in amending it in the manner he desired, no such inequality would result. Let the capital of the bank be distributed among the States in such proportions as, after mature consideration of all circumstances, the States respectively should appear to require, and let the discounts be distributed proportionally. Then where would be the inequality? He threw out this idea to those who were in favor of State taxation, merely to show them

that their principle was not of such difficult application as might be imagined. Should the present amendment be adopted, Mr. W. should follow it up with another of the nature he had described.

Mr. ROOT was opposed to the present amendment. Though he was in favor of the States having power to tax the bank, his own proposition would be that the States should have power to tax the stock of the United States Bank at the same rate that they taxed the stock of their own bank. But this was to be on condition of remitting the bonus entirely. The bonus of $200,000 a year amounted to about seven mills to the dollar on the whole capital of the bank, whereas the tax imposed by the State of New York upon her own banks did not exceed two mills on the dollar.

Mr. WARDWELL explained, and insisted that the States by his amendment would tax the stock of the United States Bank, but in no other mode than they did the stock of their own banks.

Mr. CLAYTON replied to Mr. ROOT, reminding him that the United States Bank stock was now worth one hundred and twenty-five dollars for every hundred. With such an advance, the bank might well afford to pay a bonus. A tax of five per cent. upon one hundred and twenty-five dollars would be equal to a tax of six per cent. on a hundred dollars. By the passing of this bill, the bank would, in effect, have a clear addition to its capital of twenty-five per cent. It was for this that the bonus was given. Why then should the stock of this bank be exempted from taxation any more than the stock of the State banks? Could any good reason be given for it?

Mr. EVERETT, of Vermont, said he rose to make an inquiry relative to the bank taxes in New York. In that State they had a safety fund system, and he understood that banks who would not come in under that system were taxed, with a view to compel them to assent to it. The amendment coming from that State, he presumed it had relation to the safety fund system, and to the prospective exercise of this taxing power to tax the bank without limitation. The branches might thus be driven out of the State, unless they would come in under that system. His objection was not to giving the State power to tax the bank, but to the unlimited nature of the power proposed to be given. The question being on an amendment to an amendment, he was precluded from offering any limitation to the power.

Mr. WARDWELL replied that, in offering his amendment, he had not had the slightest reference to the safety fund; no such thing had been in his thoughts. He was willing that the power of the States should be limited, and that all the States should be put on the same footing.

Mr. DAVIS, of South Carolina, regretted that the gentleman from New York (Mr. WARDWELL) had modified his amendment, and presented it in the form in which it now appeared; as it now assumed to prescribe to a State the mode in which that State should exercise its power of taxation. He was aware that the concurrent power of taxation possessed by a State in common with the General Government, was extremely delicate in its nature; and it was certainly true that, if the Government had within any State funds which were the property of the United States, such funds were not liable to be taxed by the State. But when the Government vested its funds in a canal, or in a bank, or in any company within the State, it waived that distinction, and the right of the State to tax immediately accrued. Could it be right that the citizens of a State should have a place of refuge within the State where they might vest their property, and have it sacred from the taxing power of the State? A citizen who would desire this, was surely unworthy of the name. It had been said by some gentlemen that this bank question had been settled by the people of the United States. Mr. D. did not regard it in that light. He knew of but one question which could be said to have been settled by the people since the adoption of the constitution, and that was the question in reference to the alien and sedition laws. This the people had settled themselves, and in direct contradiction to all the branches of their Government, legislative, executive, and judicial. With this exception, there was not one political proposition that did not remain as unsettled now as it was then. But independent of the concurrent power of taxation possessed by the States, (on which doctrine, however, Mr. Madison had labored to support the adoption of the federal constitution,) as a mere act of prudence, he considered it the safest and the wisest course to insert such a provision in the charter. What would not such a clause have saved to the Government in the great lottery case?

Mr. BELL was in favor of the object of the amendment, but the amendment was insufficient to attain that object. It laid down as a criterion by which the States were to tax the United States Bank stock, the rate at which they taxed their own bank stock. But in Tennessee, and, he believed, in Kentucky, and in some other States, banks were not liable to taxation at all. The criterion therefore failed. He suggested to the gentleman from New York (Mr. WARDWELL) to put his amendment in such a shape as that the amount of capital vested in such branch should be reported to the Legislature of the State where such branch was situated. It had been suggested that the amendment would give an undue power to the State of Pennsylvania; but, as a counterpoise to that, he would remind gentlemen of the amount of stock in the Western States. The Legislatures in the most distant parts of the Union —in Massachusetts and in South Carolina, would have it in their power to raise a tax upon bank stock in Tennessee. Such a feature called aloud for some remedy, as he believed there was no instance in existence where a Legislature

attempted to tax capital which lay beyond its own limits. He admitted that the subject was attended with great difficulty; but he thought that at least something might be done that would be preferable to the present state of things.

Mr. HUBBARD was not satisfied with the amendment, although he should decline offering a substitute. He then went into a particular account of the manner in which banks were taxed in New Hampshire.

Mr. ADAMS said he hoped, if any amendment was adopted, allowing the United States Bank to be taxed by the States for the benefit of the State treasuries, gentlemen would, in fairness, offer a further amendment, allowing the State banks to be taxed by Congress for the benefit of the Treasury of the United States, in proportion to the bonus to be paid by the Bank of the United States. Then there would be something like equality. This bill required the stockholders of the United States Bank to pay to the Government a tax of twenty thousand dollars a year for the privilege of doing banking business. Did the State banks pay that amount to the Treasury of the United States? If they did, then the system might have some pretensions to equality. Mr. A. hoped that no amendment would pass which should in any shape put this institution into the power of the State Legislatures. As to the State taxing the stock held by their own citizens, they would on that subject do as they pleased. None disputed their right so to do. But that was all the right they ought to possess in the matter. It had been said by the gentleman from New York (Mr. WARDWELL) that, could the sense of the people be taken, nine-tenths of them would vote in favor of the present amendment. In that opinion he believed the gentleman to be very much mistaken, though it might be very true that nine-tenths of the stockholders in State banks, and, for aught he knew, the other tenth also, would very willingly vote for it. There were, indeed, numerous and honorable exceptions, as some of the memorials from the State banks would prove. The gentleman, indeed, had spoken of memorials from his own district, in which it was made a condition of the petition in behalf of the bank, that the State Legislatures should have power to tax the capital employed by the branches. If these memorials contained such a provision, Mr. A. believed that in that respect they differed from all others which had been received upon the subject. He did not know of another instance where any such condition had been hinted at. The House had had a great deal of debate already on this subject, and an exposition had been made of the manner and form in which the safety fund system had been organized and applied within the limits of a great and preponderant State of the Union, from the Legislature of which a memorial had been sent to the House accompanied by instructions to the Senators, and a request to the Representatives of the State to vote against the rechartering of the bank. Was that memorial the voice of the people of New York? No. It was the voice of a few interested individuals, operating by means of political manœuvres to get for themselves an interest of seven per cent. by driving out of the State the branches of a bank which loaned money at six per cent. To their immortal honor, some of the representatives from the State of New York itself had exposed the whole transaction, and exhibited the entire tissue of party machinery to the public view of the people of the Union. Although the case might not be so strong in other States, yet the same principle of private and personal interest would doubtless operate on them also. And many of the memorials against the bank spoke not the voice of the people, but the voice of those who were interested in the State banks—a voice which was, in effect, against the people. Mr. A. would prefer that this section of the bill should be stricken out entirely, as it did give to the States a partial control over the bank, which, in his opinion, they ought not to possess. The power of Congress could no more be transferred to the State Legislatures than the power of Legislatures could be usurped by Congress. The people had given to each their own powers. That which they had given to Congress, it was the duty of Congress to exercise. It was given by the people of the States, not by the State Legislatures. They were fellow servants of the same masters. The members of the State Legislatures represented the people of their own States. The members of this House were representatives of the people not only of the States to which they respectively belonged, but of the people of the whole Union. Whenever the Legislature of a State undertook to tax the United States Bank stock within that State, it amounted to neither more nor less than this: it was a single State Legislature undertaking to pass laws which were to affect the interests of the whole Union; it was the Government of one State legislating upon the interests of all the States.

Mr. A. would exclude all State Legislatures from having any influence on this institution. State power had once and again interfered to injure the institution. Wherever it had been exerted, the effect had been pernicious, so manifestly pernicious, that even the State Legislature itself had more than once learned, from the effects, to come back to better principles. In the very State of New Hampshire, which had been particularly referred to, and within the last three years, a dictatorial letter had been sent from members of the Legislature to the president and directors of the parent institution, designating what individual they should appoint as president and a whole set of directors of the branch within that State. Mr. A. was opposed to all such interference. Let the State Legislatures move with all possible freedom within their own proper orbits. Let them exercise all the legitimate power conferred upon them by

the people. Let Congress never attempt to interfere with them in their appropriate functions; but let them not interfere with the legislation of Congress. He hoped that the amendment would not prevail.

Mr. BARBOUR, of Virginia, said that he was opposed to the present amendment, as he had been to all its antecedents and accessories; he was for rechartering the bank, and for that reason he must resist these indirect obstacles that were thrown into his path, and which must tend to defeat that object.

The power to tax, if conferred on the States, was in itself a power to destroy; and under no guise, and for no purpose, would he arm the States with so mischievous a power. He would rather put down the bank at once, by a vote effecting that result openly, boldly, and in the face of day, than travel the by-ways of indirection to reach it. From boyhood to the present moment of my life I have seen, felt, and expressed my own sense of the necessity of this bank. These opinions have been freely, fully, and publicly expressed to those who had a right to know them. I am sent here with a knowledge of these opinions, and upon them I mean to act. I should be false to myself, as well as to others, if I now put them away from me. Yet if I had the power wished by Caligula, (I believe,) and all the banks of the earth had but one neck, I would not hesitate a moment in giving the blow. But we are not so circumstanced. A statesman must look to the existing condition of things, and find his obligations of duty in their present relation to the public interests. A distinguished colleague of mine, (Mr. J. Randolph,) [no longer a member of this House, but whose opinions always command my respect,] said, on a former occasion, that the founders of our Government intended that this should be a hard money Government. George Washington and Alexander Hamilton quickly saw that this was impossible; but they saw that public morals, public interest, and common honesty, required the closest possible approximation to it. This was found in the creation of the National Bank in 1791, put down in 1811, and the need for its reëstablishment strikingly illustrated in the pinching necessities of which the present bank is the offspring. A metallic currency would be the soundest, the safest, the least liable to fluctuation or fraud. But, sir, we are not employed in studying alchemy, nor have we, nor can we, discover it. We cannot change the present state of things; we must look out for that which is the best, the surest succedaneum for a metallic currency. There is no counsellor so safe, no guide so unerring, as experience. This we once disregarded; we incurred the penalties of an error, and were driven back into those footsteps in which we were sternly and severely counselled to tread.

In the whole system of trade, in its largest comprehension, there is no nerve so delicate, none so sensitive, as its money nerve. No matter whether that nerve be made of coin, golden bullion, or bank notes. Touch it, and the vibration is deep, and long, and sensible, throughout its own world of commerce and exchanges. The circulating medium of every country is its scale of value; and upon it, and by it, the rights, the interests, and the stability of property must be graduated and defined.

The power in the States to tax *ad libitum* the Bank of the United States, is neither more nor less than a power, at the same will, to increase or diminish the quantity of circulating medium, and to prescribe terms as the price of its forbearance, by which the amount of currency may be swelled or decreased. If this be not a power to fix the value of property by the fluctuating counsels of the local Governments, then the grant proposed to be given cannot be expected to be exercised by the Legislatures of the States. If it be such power, then it should be withheld by all the obligations that bind us to our social and relative duties. Is not, said Mr. B., the history of the States filled with those freaks in legislation which touch the rights of property, and the correlative wealth and poverty of our citizens, by a circuitous action, but as fatally and as mischievously as the more direct agency of the most profligate men in the worst ages of the world? The means of expelling the measure of value through the power of taxation is too large and dangerous an endowment of power; is a trust pregnant with too much of evil, to be parted with, if it be possible to withhold it. What are these sudden and violent fluctuations in the channels of currency, but one great and fatal Euripus, in which labor loses the sweat of its own brow, and cunning gains that for which it never has and never will toil. Frequent changes in this measure of value (the coin and bank notes) invariably instigate one portion of society to prey upon another. You let loose and stimulate the sharpened wits of one class of men against the blunter intellects of another; and in the conflict the hard earnings of honest industry become the victim and the sacrifice. The State Legislatures interested in the State banks will so tax the national currency as to secure the circulation of its own notes; and then comes the struggle who shall fill the channels of currency. No such strife ever did exist without this effect; the bad notes will drive the good notes out of circulation. Why, sir, it is the plainest thing in our daily transactions. The purchaser goes into market with two notes in his pocket, the one good beyond doubt, the other on a suspicious bank, and of doubtful credit—which will that purchaser part with in the market? Will he not push the bad or doubtful note away from him, and retain the good one? Will not everybody else do so too? And thus the bad notes become our circulating medium. Is self-interest dead, or has that sleepless passion now determined for once to sink into slumber, whilst we put down that useful institution? Sir, common sense may

sleep, but it always wakes up refreshed by its slumbers; and though from some sort of purpose, God knows well what, this bank may either be deferred or put down, (for doubt about it will give birth to fraud and mischief, and the swapping of property without valuable consideration,) yet I say, sir, it will again rise, and it will owe its renewed existence to the honesty, the intelligence, ay, the absolute necessities of the country.

But another point in view. Gentlemen argue this question as if we were trenching upon the power of the States. Are the true friends of the State rights aware of the difficulties that here lie in wait for them, and into which they are now plunging? The taxing power is either inherent in the States, belonging to them of right, or it is not. If in them, our grant is idle, supererogatory, and worthless. If not in them, can this Government, the creature of the States, throw back power upon its creator? If the power be in us, and is only to be exercised by our gift, may we not give it, in whole or in part, to one, to more of the States, and to all? Sir, the trite maxim, *Cujus est dare, ejus est disponere*, springs to the view. May we not give it on condition, and cause the free and sovereign States of this confederacy to kneel and to knock at our doors for terms and conditions; ay, the terms and conditions which the master prescribes to his slave? Is State pride to be rebuked by the federal frown, or cheered by the federal smile. For one, and I claim to be, in the legitimate sense of the term, as genuine a friend of the reserved powers of the States as any boaster here; for one, all my pride and all my principles in relation to State sovereignty rise up in rebellion to this notion. There is a spirit and a temper in the States that would revolt at such an interpretation of their rights. Between the two Governments, the sovereign power, the people, have partitioned out granted means for specified ends. And the authority of neither the one Government nor the other can be augmented or diminished by the gift or grant of the other. You cannot make the States tenants at the federal will. I repeat, sir, if we have this power to tax, can we transfuse it at will into the local legislation of the several States? Is this power so mutable that we can retain or transfer it at our pleasure? I rely upon that salutary principle which is engrafted into our system of jurisprudence, and drawn from the wisdom of antiquity—*Delegatus non potest delegare.* It is a maxim drawn to us from our Anglo-Saxon forefathers. When a lawless king, meanly sunk in loose, inglorious luxury, aimed at still more lawless power, and claimed the right of unlimited taxation as being within himself, by the ready grant of a tame and supple Parliament, a hardy and fearless baron (an iron baron) said—"*Delegatus non potest delegare.*" The baron won liberty and immortality; the king lost his head. This claim, the stern reproach, and the commentary that followed, are dear to liberty, and stand in the records of history. Sir, the States cannot, will not take by your gift. We ought not to give it if we could; because we give a power to destroy this necessary fabric for the public wants, the public necessities; this shield for public morals, and this barrier against the irruption of all the ills that invade the rights of fair dealing and honest industry. I trust that this amendment, with its incidents and substitutes, will each be rejected.

Mr. MUHLENBERG, having asked and obtained leave to be excused from voting, in consequence of his having recently acquired some of the stock of the bank,

The question on the amendment of Mr. W. was put, and negatived—yeas 89, nays 93.

Mr. WAYNE then moved an amendment, in substance, viz., that the bank should pay to the several States, for the privilege of having branches therein, an annuity of one per cent. on the capital stock which may be assigned to each branch, but which he withdrew in favor of

Mr. W. R. DAVIS, who proposed another amendment, in substance, viz., to provide that nothing in this act, or the original act, should be construed to exempt or deprive the several States of their power of taxation.

The amendment was debated at length.

Mr. ADAMS remarked that it was in effect to nullify the decisions made on this subject by the Supreme Court.

After some further discussion by Messrs. ELLSWORTH, DAVIS, INGERSOLL, and HUBBARD, Mr. H. moved a call of the House, which was negatived.

Mr. MARSHALL said it appeared to him to be appropriate, while we are engaged in considering the propriety of recognizing the power of the States to tax this institution, or of conferring such power upon them, to look back upon the instances in which this power had been exercised, or attempted to be exercised, on the part of the States, that we might thus see what would probably be the effect of the recognition or grant of the power, if now expressly made. He recollected three instances of the exercise, or attempted exercise, of such a power, by Kentucky, by Ohio, and by Maryland. In two of these cases he was certain, and in all of them he believed, the open and avowed object of imposing the tax was to drive the branches of the United States Bank from those States respectively; and, from the amount of the tax imposed, such must have been the effect, if the tax had been collected. Since, then, the power to tax might be used for the purpose, and to the extent of destroying the subject; and as experience had shown that it had been attempted to be used for that purpose, and to that extent, in regard to the bank, it seemed to him to involve a palpable inconsistency for those who maintained the constitutional power of Congress to enact this charter, and who intended to vote for the continuance of the bank, to insert in the instrument which should provide for its continued existence, the grant or recognition of a right

in other Governments, which, judging from the past, he was justified in saying would by some of those Governments be used for the purpose of destroying it. To grant to the States, or to admit that they already possess the unlimited power of taxing the branches situated within them respectively, was to admit, or to grant to the States the right to defeat and destroy the purposes and objects for which the bank might be created; and was so obviously and utterly at war with the principles on which alone this charter could be maintained to be constitutional, that he thought it impossible for those who intended to vote for the charter, also to support the amendment now under consideration.

The question on the amendment of Mr. DAVIS was negatived—yeas 81, nays 108.

Mr. WAYNE then renewed the amendment he had just withdrawn.

Mr. HOWARD suggested as a modification, to insert, "and no bonus shall be paid by the bank;" and said, if this was added, he would vote for the amendment.

Mr. WAYNE accepted the suggestion, and modified his amendment accordingly.

After a protracted debate, in which Messrs. PATTON, DODDRIDGE, INGERSOLL, WAYNE, COULTER, and IRVIN took part,

The question on the amendment of Mr. WAYNE, as modified, was negatived—yeas 68, nays 108.

Mr. HUBBARD proposed an amendment, that the States may have the power to tax the bank branches at a rate not exceeding one-half per cent.

Negatived—yeas 81, nays 90.

Mr. CRAIG said it was evident that the bill would be carried in a shape not very different from what it was. He would therefore move the previous question. It was not seconded.

Mr. BELL proposed an amendment, in substance, viz: that there should be a tax on the profits of the branches in each State, not exceeding the tax paid by the local banks. The amendment was negatived—yeas 87, nays 94.

Mr. MANN moved an amendment in the following form:

"On so much of the capital stock held by foreigners or their agents, there shall be paid by the president, out of their respective dividends on stock, one per cent."

He insisted that it was no more than just that a State should be allowed to tax the capital of branch banks within its own limits. For however convenient such branches might be, it must be admitted that their capital took the place of just so much State bank capital, which would otherwise be employed, and which would yield the State a revenue.

Mr. ADAMS remarked that this was, in effect, saying that foreigners should not hold any stock.

Mr. WAYNE could not vote for this amendment, as he was willing to make the bank as good as he could, but not as bad as he could.

Mr. BURD, of Pennsylvania, said it seemed to him that the proposition submitted by his colleague was entitled to respectful consideration. Let us examine it, said Mr. B., and decide upon its merits. It proposes that, on so much of the capital stock of the United States Bank as shall or may be held by foreigners or their agents on or after the 3d day of March, 1836, there shall be paid, annually, by the president and directors of the said bank, into the Treasury of the United States, one per cent., to be deducted from the dividend which may be due and payable to said foreigners or their agents. It is well known that the stock of the Bank of the United States to a very great amount is held by foreigners. In using the term foreigners here, I mean persons subject to foreign Governments, and not residing within the United States. This is not objectionable, and it conclusively proves that great confidence is entertained in the stability of the institution, and that it has been prudently as well as profitably conducted. For, after all, it is interest which governs in cases of this kind. Does any one believe that it was with a sole view to benefit this country that those foreigners were induced to make such investments? Certainly not. They believed that stock in this bank would be productive, and they calculated wisely, as experience has demonstrated. We were well pleased that they sent their money here, and I, for one, would have no objection if more of it were sent or brought here, for we are taught to believe that "where your treasure is, there will your heart be also." Having said this much respecting stock held by persons not residing within the United States, it is hoped that I may be excused for inquiring what right has this foreign capital, employed here and yielding a handsome per cent. to the owners of it, to be exempted from bearing its share of the necessary expenses of a Government which affords it employment and security. I, for one, do not perceive the justice of it. It may be said, the foreign owners of this stock have entered into contract, and paid their proportion of the bonus; true, and so have the stockholders who reside in this country. Domestic capital bears its share of this contribution for banking privileges afforded by Government, and also pays taxes for State purposes. I, therefore, am not willing that Baring and Brothers, and other wealthy foreign capitalists, having money profitably employed here, should pay less to the support of State Governments, and the improvements made within their limits, than the owner or owners of a small tract of land, or the man who has his debt secured by bond or judgment.

One word more concerning this bonus made up of both foreign and domestic contribution. What is it? Why, sir, little more than an equivalent for the Government deposits made in this bank and its branches, amounting, annually, to many millions of dollars. At this protracted period of debate, I shall not discuss the power possessed by the States of this Union to

tax the stock of foreigners in this bank. Should there be any doubt about it, we can easily remove it by acknowledging the right in the law which creates its charter. It will go into existence under it, after the expiration of the present charter, and subject to its provisions. Therefore, when a boon is to be granted, let us exact our just dues. Is a corporation, a thing without soul or bowels, as the book says, the profits of whose exertions are in a great measure to be enjoyed by citizens of other countries, to have higher privileges than citizens of our own country? I hope not.

These observations are not made from any hostile feeling toward this bank, for I am in favor of its being rechartered, believing that it has a powerful influence in keeping the currency of the country in a sound state, besides the aid which it affords the Government respecting the collection and transmission of the revenue. The distress and embarrassment which fell upon us when the impolitic measure of prostrating this bank was resorted to at a former period, added to the difficulties necessarily produced by the embargo and non-intercourse preceding the last war, ought to warn us of the evils which follow our refusing to recharter this bank. The idea of a Treasury bank is, to me, chimerical. I have seen your Treasury notes, bearing interest last war, offered at a discount of fifteen per cent., and people unwilling to purchase them.

I, therefore, conceive that this resolution, if acted on so as to become a part of this bill, will form a wholesome provision in it, and be a matter of strict justice to our own citizens; and that no foreigner ought to complain of it, and, therefore, hope it may prevail.

Mr. CLAYTON thought it a reasonable proposition.

The question on the amendment was negatived—yeas 77, nays 110.

Mr. CLAYTON proposed an amendment, in substance, viz., that it shall not be lawful for any foreigner to hold any stock in the bank, under penalty of forfeiture; and he hoped the House would indulge him with the yeas and nays on this motion. The House refused to order the yeas and nays; and the amendment of Mr. CLAYTON was then negatived.

Mr. LEWIS moved an amendment, providing that after the acceptance of the amended charter, it should not be lawful for the bank to take more than five per cent. upon loans or discounts; which was briefly discussed by Messrs. LEWIS and DODDRIDGE, and was lost—yeas 88, nays 103.

Mr. CLAYTON moved a proviso that nothing in this act be construed to restrain the incorporation of another bank, or banks, by Congress; which was lost without a division.

Mr. MCKAY moved a provision that the cashier of the bank shall report to the treasurer of each State wherein branches are located, the amount of capital stock owned by foreigners, and the branches shall pay upon their proportion of such stock, according to the capital assigned them, into the State Treasuries respectively the same rate of tax as is assessed on the stock of State banks.

This provision was discussed by Messrs. MERCER, MCKAY, and BURGES, and was lost—yeas 79, nays 101.

Mr. HAWES moved an amendment that the charter be not extended for a period exceeding ten years; which was lost without a division.

Mr. HORN moved a proviso that no director, or officer of the bank, should vote at any election in behalf of other stockholders, by virtue of proxy; nor should any proxy to any person be valid for a period exceeding thirty days after it was given. This was lost without a division.

Mr. HOWARD was friendly to the bank, and should probably vote for its recharter; but he was convinced that it was injurious to its true interests to press this bill further at this time. He moved to lay the bill and the amendments on the table; which was negatived—yeas 83, nays 104.

After the vote was declared,

Mr. MCDUFFIE rose, and requested the friends of the bank to remain in their seats, and vote down all the amendments that might be offered to the amendment he had proposed, as it was obvious they were offered merely for delay. It was highly important that the bill be now disposed of.

Mr. F. THOMAS moved an addition of $250,000 to the bonus proposed by the bill as it came from the Senate. This was negatived—yeas 73, nays 109.

Mr. COULTER moved a provision that a Joint Committee be annually appointed, to be composed of one member of the Senate, and two members of the House, whose duty it should be to visit and thoroughly examine the transactions of the bank, and report a statement of their doings, and of the situation of the bank, to Congress; upon which report (if unfavorable) Congress should have the right of passing a law repealing the charter of the bank.

Mr. C. advocated this provision at length. It had been found necessary in Pennsylvania to insert a condition of repeal in the bank charters granted by the States. He had been informed that such was the recent practice in New York and in other States.

The proposition was rejected.

The question was taken on Mr. MCDUFFIE'S amendment, (expunging that clause of the bill which restricted the number of branches in any one State to two,) and was agreed to without a division.

Mr. NOYES BARBER then demanded the previous question; which demanded was sustained—yeas 86, nays 54.

Mr. RENCHER demanded the yeas and nays on the previous question; which were ordered.

On this question—"Shall the main question be now put?" the yeas were 82, nays 95.

So the House decided that the main question should not then be put.

Mr. MERCER then rose to move a reconsideration of this vote; when

The House adjourned.

TUESDAY, July 3.

Bank of the United States.

The question being on the motion of Mr. MERCER to reconsider the vote by which the House had on the previous night refused to allow the previous question to be then put,

Mr. CLAY moved to lay Mr. M.'s motion on the table; but consented to withdraw that motion upon the request of

Mr. TAYLOR, of New York, who made an explanation respecting the manner in which he had voted yesterday, and advocated the reconsideration.

Mr. CLAY now renewed his motion to lay the motion of Mr. MERCER on the table.

After various inquiries in relation to order had been put to the Chair, and answered,

The question on laying the motion to reconsider, &c., on the table, was put, and carried—yeas 80, nays 62.

Mr. LEWIS, of Alabama, moved to strike out the seventh section of the bill, and insert in lieu thereof a provision that the bank should not take a higher rate of interest on its loans or discounts than five per cent.

Mr. THOMSON, of Ohio, offered the following as an amendment:

"A tax not exceeding eight per cent. on the dividend annually collected and declared, which tax shall be paid into the Treasury of each State in which said bank shall make discounts, either by itself or its branches, in proportion to the amount of dividends collected in each State; which said tax shall be paid on the 4th day of March in each year, during the term of fifteen years; and a statement of the amount so paid by the bank shall be made by the president thereof to the Secretary of the Treasury of the United States on or before the 1st day of April in each of the fifteen years aforesaid."

Mr. DEARBORN thereupon moved the previous question; which was seconded—yeas 94.

The previous question was then put as follows: "Shall the main question be now put?" and decided by yeas and nays in the affirmative—96 to 82.

The main question was then stated on ordering the bill to be read a third time, and decided by yeas and nays as follows:

YEAS.—Messrs. Adams, C. Allen, H. Allen, Alison, Appleton, Armstrong, Arnold, Ashley, Babcock, Banks, N. Barber, J. S. Barbour, Barringer, Barstow, I. C. Bates, Briggs, Bucher, Bullard, Burd, Burges, Choate, Collier, L. Condict, S. Condit, E. Cooke, B. Cooke, Cooper, Corwin, Coulter, Craig, Crane, Crawford, Creighton, Daniel, J. Davis, Dearborn, Denny, Dewart, Doddridge, Drayton, Ellsworth, G. Evans, J. Evans, E. Everett, H. Everett, Ford, Gilmore, Grennell, Hodges, Heister, Horn, Hughes, Huntington, Ihrie, Ingersoll, Irvin, Isacks, Jenifer, Kendall, H. King, Kerr, Letcher, Mann, Marshall, Maxwell, McCoy, McDuffie, McKennan, Mercer, Milligan, Newton, Pearce, Pendleton, Pitcher, Potts, Randolph, J. Reed, Root, Russel, Semmes, W. B. Shepard, A. H. Shepperd, Slade, Smith, Southard, Spence, Stanberry, Stephens, Stewart, Storrs, Sutherland, Taylor, P. Thomas, Tompkins, Tracy, Vance, Verplanck, Vinton, Washington, Watmough, E. Whittlesey, F. Whittlesey, E. D. White, Wickliffe, Williams, Young—106.

NAYS.—Messrs. Adair, Alexander, Anderson, Archer, J. Bates, Beardsley, Bell, Bergen, Bethune, James Blair, John Blair, Bouck, Bouldin, Branch, Cambreleng, Carr, Chandler, Chinn, Claiborne, Clay, Clayton, Coke, Conner, W. R. Davis, Dayan, Doubleday, Felder, Fitzgerald, Foster, Gaither, Gordon, Griffin, T. H. Hall, W. Hall, Hammons, Harper, Hawes, Hawkins, Hoffman, Hogan, Holland, Howard, Hubbard, Jarvis, Cave Johnson, Kavanagh, Kennon, A. King, J. King, Lamar, Leavitt, Lecompte, Lewis, Lyon, Mardis, Mason, McCarty, McIntire, McKay, Mitchell, Newnan, Nuckolls, Patton, Pierson, Polk, E. C. Reed, Rencher, Roane, Soule, Speight, Standifer, F. Thomas, W. Thompson, J. Thomson, Ward, Wardwell, Wayne, Weeks, Wheeler, C. P. White, Wilde, Worthington—84.

Mr. BEARDSLEY moved to suspend the rule to make way for a motion that the bill receive its third reading this day.

Mr. REED, of New York, demanded the yeas and nays on this motion; which being ordered and taken, the rule was suspended—yeas 124, nays 60.

Mr. DEARBORN moved the previous question; which being seconded by a majority of the House,

Mr. BOULDIN demanded the yeas and nays on the previous question; which being taken, stood—yeas 109, nays 76.

So the previous question was ordered.

The main question was then accordingly put, "Shall this bill pass?" and was decided in the affirmative by yeas and nays as follows—yeas 107, nays 85.

So the bill was passed, and returned to the Senate as amended.

Mr. J. S. BARBOUR having been called out for a few minutes on representative duty, and being thereby absent when the question was put, requested leave to record his vote.

Mr. W. R. DAVIS said he was similarly circumstanced; but leave was refused to both.

WEDNESDAY, July 4.

Public Lands.

Mr. LEWIS CONDICT moved that the House reconsider the vote of yesterday by which "the act to appropriate, for a limited time, the proceeds of the sales of the public lands, and for granting lands to certain States," was postponed until the first Monday in December next; and after a call of the House, and the question being taken thereon, the House refused to reconsider the vote—yeas 88, nays 100.

The remainder of this day's sitting was spent on the quarantine bill, and various pension bills.

THURSDAY, July 5.

The Alleged Fraud.

Mr. DRAYTON, from a majority of the committee appointed to inquire whether an attempt was made by the late Secretary of War, John H. Eaton, fraudulently to give Samuel Houston, or any other person or persons concerned with said Houston, a contract for supplying rations to emigrating Indians, made a report accompanied with the following resolutions:

Resolved, That John H. Eaton, the late Secretary of War, and Samuel Houston, do stand entirely acquitted, in the judgment of this House, from all imputation of fraud, either committed, or attempted to be committed by them, or by either of them, in any matter relating to, or connected with, the premises.

Resolved, That all the evidence which was submitted to the committee, together with the journal of their proceedings, be annexed to, and recorded with, this report; which report was read, and the documents therewith ordered to be printed.

Public Fast Day—Cholera.

The following joint resolution from the Senate having had its first and second reading, coming up on its last reading, viz:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That a joint committee of both Houses wait on the President of the United States, and request that he recommend a day, to be designated by him, of public humiliation, prayer, and fasting, to be observed by the people of the United States with religious solemnity, and with fervent supplications to Almighty God that He will be graciously pleased to continue His blessings upon our country, and that He will avert from it the Asiatic scourge which has reached our borders; or if, in the dispensations of His providence, we are not to be exempted from the calamity, that, through His bountiful mercy, its severity may be mitigated, and its duration shortened—

Mr. PLUMMER said that he could not agree to this resolution. There was no gentleman in that House, not a professor of religion, who entertained a higher respect for it than himself. He approved of the practice of fasting, and thought it was highly proper that days should occasionally be set apart for fasting, humiliation, and prayer; but he did not think that the authorities of the country had any thing to do with matters of this kind. He did not find in the constitution any power conferred on the President to appoint a day for such a purpose. He knew that it had been contended that what was now asked from the Executive was not an authoritative order, but simply a recommendation. That was very true; but it was also true that such a recommendation, proceeding in the form of a proclamation from the Chief Magistrate, would come to the people clothed in Executive authority. Were it otherwise, the whole proceeding would be nugatory. The Executive was asked to set apart and appoint a day to be observed throughout the nation. It had been further contended that there were precedents for such a recommendation. Mr. P. had carefully examined the precedents on record, and all he could find was, a recommendation that the several States set apart days of fasting and prayer. There was no precedent to be found of any application on the part of Congress to the President of the United States to make any such appointment, and he hoped it would not now be done for the first time. Admitting that the approach of such a calamity upon our borders did make it obligatory to appoint such a day, still there existed a stronger reason why this resolution ought not to be adopted. There was something in the time and in the circumstances, which rendered it highly indecorous to pass it. The House had all seen in the papers the opinion expressed by the Executive branch of the Government, that the constitution gave him no power to make any such appointment. With such an expression of the opinion of the President before them, Mr. P. asked if it would be expedient, if it was respectful, if it was decorous on the part of that House to appoint a committee to ask the President to do that which he had publicly declared it as his opinion that he had no constitutional power to do. Every one knew that the President was a sworn officer; yet gentlemen were now in favor of asking him, after he had taken an oath to observe the constitution, to do an act which he declared to be against the constitution. There was also in the papers an expression of opinion by the Executive of one of the States, which set forth the reasons why such an act would be against the spirit of the constitution. The reasons there given by the Governor of New York must, he should think, be sufficient to convince any one that the Executive Magistrate had no such power. Mr. P. concluded by saying that he did not wish to take up the time of the House, but considered it due to himself to say thus much in vindication of the vote he was about to give.

Mr. DEARBORN, in reply to the remark of Mr. PLUMMER, that no precedent was to be found for such a measure as was now proposed, read to that gentleman, and to the House, a resolution passed by Congress in 1812, appointing a committee to wait upon the President, and request him to appoint a day of fasting, humiliation, and prayer. He then read to him another resolution of a similar tenor, passed in 1814; and referred him to a third, adopted at the close of the last war, for a committee to request the President to appoint a day of general thanksgiving. Mr. D. considered the measure as neither indecorous nor inexpedient. If ever a measure of this description was fit and becoming, it certainly was so at a juncture like the present; and he hoped that no gentleman would object to so reasonable and becoming an act as the request for a day of solemn, religious

humiliation, with a view to avert a great national calamity.

Mr. BATES moved to lay the resolution on the table.

Mr. WHITTLESEY demanded the yeas and nays; which were taken, and stood—yeas 46, nays 91.

So the House refused to lay the resolution on the table.

Mr. REED, of Massachusetts, expressing himself favorable to the resolution, but strongly opposed to having it debated, moved the previous question; but, on request, consented to withdraw the motion.

Mr. BELL, with a view to obviate the objections which were felt to the resolution in its present form, moved to amend it by adding the words "if in his opinion it is proper."

The CHAIR reminded Mr. BELL that it was not in order in the House to amend a joint resolution in its present stage.

Mr. BELL, of Tennessee, thereupon moved that the resolution be recommitted to the Committee of the Whole on the state of the Union, with instructions to amend the resolution in the following manner:

Strike out the words "a Joint Committee of both Houses of Congress wait upon the President of the United States, and request that he recommend," and insert in lieu thereof that "Wednesday, the 25th of this month, be recommended to the people of the United States to be observed," &c.

MONDAY, July 9.

Public Fast Day.

The House resumed the consideration of the resolution from the Senate, respecting a day of humiliation, fasting, and prayer.

After a protracted and somewhat angry debate, mainly on points of order, the subject was disposed of by committing the resolution to a Select Committee (Messrs. BELL, VINTON, and REED) with instructions to amend by inserting the 2d of August.

MONDAY, July 16, 6 A. M.

Adjournment.

A committee was, on motion of Mr. POLK, appointed, on the part of this House, to join such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and notify him that, unless he may have other communications to make to the two Houses of Congress, they are ready to adjourn.

Shortly after which, Mr. POLK and Mr. FINDLAY, as the committee, proceeded to the President, and having returned, Mr. POLK communicated to the House that they had waited accordingly on the President, who informed them that he had no other message or communication to make to the House; and, on motion,

The House thereafter immediately adjourned.

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